

when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period; and

(c) that no Court, after admitting and registering an appeal, shall dismiss it on the ground that it was not presented within the prescribed period.

6. When, by any law now or hereafter to be in force in any part of British India, a period of limitation shorter than that prescribed by this Act is specially prescribed for a particular class of suits or appeals, nothing herein contained shall affect such law.

Legal Disability.

Legal disability.

7. If a person entitled to sue be, at the time the right to sue accrued,

- 1st, within the age of eighteen years;
- 2nd, insane; or
- 3rd, an idiot;

he may institute the suit within the same period after the disability has ceased, or (when he is at the time of the accrual affected by two disabilities) after both disabilities have ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the second schedule hereto annexed.

When his disability continues up to his death, his representative in interest may institute the suit within the same period after the death as would otherwise have been allowed from the time prescribed therefor in the third column of the same schedule.

Nothing in this section shall be deemed to extend, for more than three years from the cessation or death, the period within which the suit must be brought.

8. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until they all are free from disability.

9. When once time has begun to run, no subsequent disability or inability to sue stops it.

III.—Computation of Period of Limitation.

10. In computing the period of limitation prescribed for any suit, the day on which the right to sue accrued shall be excluded.

In computing the period of limitation prescribed for an appeal under the Code of Civil Procedure, an application for leave to appeal as a pauper, and an application to the High Court for

the
the
the
decree

11. In

Exclusion of time of defendant's absence British India.

mons to appear and a such absence, be made Procedure, section sixty.

12. In computing the

Exclusion of time of suing *bona fide* in wrong Court. prescribe. time during which plaintiff has been diligent

whether in a Court of first instance or appeal, against the same defendant or a whom he represents, shall be excluded, if the last-mentioned suit is founded upon the same to sue, and is instituted in good faith in a not having jurisdiction to try it.

Explanation 1.—In excluding the time during which a former suit was pending, the day on which that suit was instituted, and the day on which the proceedings therein ended, shall both be counted.

Explanation 2.—A plaintiff resisting an appeal presented on the ground of want of jurisdiction, shall be deemed to be prosecuting a suit within the meaning of this section.

13. In computing the period of limitation

Exclusion of time during which commencement of suit is stayed by injunction. prescribed for any suit, the commencement of which has been stayed by injunction, the time of the continuance of the injunction shall be excluded.

14. In computing the period of limitation

Exclusion of time during which judgment-debtor sues to set aside execution sale. prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which the judgment-debtor has been prosecuting a suit to set aside the sale shall be excluded.

15. When a person who would, if he were

Effect of death before right to sue accrues. living, have a right to sue, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative in interest of the deceased.

When a person against whom, if he were living, a right to sue would have accrued, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative whom the plaintiff may sue.

16. When any person having a right to sue

Effect of fraud. has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded,

Provided that when a defendant dies, and the suit is continued against his representatives in interest, it shall, as regards them, be deemed to have been commenced when it was instituted against the deceased defendant.

Proviso where original defendant dies.

rough him for a valuable

when the fraud person injuriously case of the concealed and the means of production.

ment or promise in respect of a debt or legacy shall take the case out of the operation of this Act, unless such acknowledgment or promise is contained in some writing by the party to be charged

When such writing exists, a new period of limitation, according to the nature of the original liability, shall be computed from the time when the acknowledgment or promise was signed: Provided that, where more partners, executors, or other persons than one are liable, none of them shall become chargeable by reason only of a written acknowledgment or promise signed by another of them.

When the writing containing the acknowledgment or promise is undated, oral evidence may be given of the time when it was signed. But when it is alleged to have been destroyed or lost, oral evidence of its contents shall not be received.

Explanation.—For the purposes of this section, an acknowledgment or promise may be sufficient, though it omits to specify the exact amount of the debt or legacy, or avers that the time for payment or delivery has not yet come, or sets up limitation as a bar, or is accompanied by a refusal to pay or deliver, or is coupled with a claim to a set-off, or is addressed to any person other than the creditor or legatee.

Illustrations.—Z, a bond-debtor, himself writes a letter promising to pay the debt to his creditor A. Z affixes his seal, but does not sign the letter:

He pays part of the debt and promises orally to pay the rest:

He pays interest on the debt:

He pays part of the debt, and signs a memorandum of the part-payment:

Z's agent writes and signs a letter to A, promising to pay the debt:

Z publishes an advertisement, requesting his creditors to bring in their claims for examination:

In none of these cases is the debt taken out of the operation of this Act.

18. When, after the institution of a suit, a new plaintiff or defendant is substituted or added, the period of limitation applicable to such suit shall, as regards him, be computed up to the time when he was so made a party:

Computation where there are successive breaches of contract.

Computation where the breach is continuing.

19. In the case of a suit for the breach of a contract, where there are successive breaches, a fresh right to sue arises, and a fresh period of limitation begins to run, upon every fresh breach; and where the breach is a continuing breach, a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the breach continues.

In the case of a continuing nuisance a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the nuisance continues.

Illustration (a).—A contracts to pay an annuity to B for his life by quarterly instalments. A fails to pay any of the instalments. Here upon every fresh failure, a fresh right to sue arises and a fresh period of limitation begins to run; and this Act may bar the remedy on the earlier breaches without affecting the remedy on the later breaches.

Illustration (b).—A, a tenant, covenants with B, his landlord, to keep certain buildings in repair. At every moment of the time during which the buildings continue out of repair and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

Illustration (c).—A diverts B's watercourse. At every moment of the time during which the diversion continues and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

20. In the case of a suit for compensation for an act lawful in itself, which becomes unlawful in case it causes damage, the period of limitation shall be computed from the time when the damage accrues.

Suit for compensation for lawful act becoming unlawful.

When the damage done by such act is of a continuing nature, the period of limitation shall be computed from the time when such damage ceases.

Illustration (a).—A owns the surface of a field. B owns the subsoil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation runs from the time of the subsidence.

Illustration (b).—A digs a canal on his own land and thereby causes a stream of water to flow against his neighbour's wall and gradually to undermine it, so that at last the wall falls. The period of limitation runs from the time of the falling.

21. When a decree directs payment to be made by instalments at specified dates, for the purpose of computing the time within which application may be made to enforce each instalment, the date when it becomes due shall be deemed the date of the decree.

Decree directing payment by instalments.

22. In the absence of evidence to the contrary, an instrument made by a Native shall, for the purposes of this Act, be deemed to be

Time mentioned in Native instruments.

made with reference to the calendar ordinarily employed by him.

*Illustration (a).—*A Hindú makes a promissory note bearing a Native date only, and payable four months after date. There is no evidence as to the calendar to which he referred. In computing the period of limitation applicable to a suit on the note, the four months shall be computed according to the Native calendar ordinarily used by the maker.

*Illustration (b).—*A Hindú makes a bond, bearing a Native date only, for the repayment of money within one year. There is no evidence as to the calendar to which he referred. The year shall be computed according to the Native calendar ordinarily used by the obligor.

IV.—Adverse Possession and Prescription.

23. For the purpose of constituting an adverse possession by a person claiming title, land is deemed to have been possessed and occupied

(1) where it has been usually cultivated or improved,

(2) where it has been protected by a substantial enclosure,

(3) where buildings have been erected upon it, or

(4) where it has been used for the supply of fuel, timber, minerals, wax, honey, lac, juice of trees and the like, or for the purposes of husbandry, or otherwise for the benefit of the occupant;

and an hereditary office is deemed to have been possessed when the profits thereof have been usually received.

2.

Relati
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possession
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Pres

25. Adverse, uninter

Title by prescription. peric.
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cient against all.

V.—Miscellaneous.

26. Notwithstanding anything

Suits against express contained, no suit
trustees and their repre- person to whom prop-
sentatives. been conveyed in tru-
specific purposes, and no suits against his
sentatives, for the purpose of following in his
their hands such property, shall be barred by an
length of time.

27. No foreign rule of limitations shall be a

defence to a suit in British
Foreign limitation law. India on a contract entered
into in a foreign country,
unless the rule has extinguished the contract, and
the parties were living in such country when the
extinction took place.

28. Suits in British India on contracts entered

Suits on foreign con- into in a foreign country are
tracts. subject to the rules prescribed
by this Act.

SCHEDULE.

(See section 2.)

Subject or title.	Extent of repeal.
... An Act for limitation of actions and for avoiding of suits in law.	The whole Statute.
... An Act for the amendment of the law and the better advancement of justice.	Sections seventeen, eighteen and nineteen.
one hundred An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with certain exclusive privileges; for establishing further Regulations for the government of the said territories, and the better administration of justice within the same; and for regulating the trade to and from the places within the limits of the said Company.	Section one hundred and twenty-four, so far as it applies to British India.
6 & 7 Vic., cap. ninety-four ... Foreign Jurisdiction Act ...	Section seven, so far as it applies to British India.
Act No. XI of 1841 ... Military Courts of Requests ...	The proviso in section nine.
Act No. XII of 1855 ... An Act to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs.	In section one, the words "and provided such action shall be brought within one year after the death of such person," and the words "and so as such action shall be commenced within two years after the committing of the wrong."
Act No. XIII of 1855 ... An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.	In section two, the words "and that every such action shall be brought within twelve calendar months after the death of such deceased person."
Act No. XXV of 1857 ... Forfeiture for mutiny ...	Section nine.
Act No. VIII of 1859 ... The Code of Civil Procedure ...	In section one hundred and nineteen, the words "within a reasonable time not exceeding thirty days after any process for enforcing the judgment has been executed," and the words "within thirty days from the date of the judgment." In section two hundred and thirty, the words "within one month from the date of the dispossession." In section two hundred and thirty-one, the words "within one month from the date of

FIRST SCHEDULE—continued.

Number and year.	Subject or title.	Extent of repeal.
		the dispossession." The last twelve words of section two hundred and forty-six. In section two hundred and fifty-six, the words "at any time within thirty days from the date of the sale." In section two hundred and sixty-nine, the words "if made within one month from the date of such existence or obstruction, or of such dispossession as the case may be." In section three hundred and twenty-four, the second sentence. In section three hundred and twenty-seven, the words "within six months from the date of the award." In section three hundred and thirty-three, from and including the words "within the period" down to the end of the section. In section three hundred and forty-seven, the words "within thirty days from the date of the dismissal." In section three hundred and seventy-three, the words "within the period prescribed for the presentation of a memorandum of appeal." Section three hundred and seventy-seven.
Act No. IX of 1859	... Forfeited property ...	The proviso in section twenty.
Act No. XIV of 1859	... An Act to provide for the limitation of suits.	The whole Act, except so much of section fifteen as does not relate to the limitation of suits.
Act No. IX of 1860	... Workmen and employers ...	So much of section two as relates to the limitation of suits.
Act No. XXXI of 1860	... Arms Act ...	So much of section forty-nine as relates to the limitation of suits.
Act No. V of 1861	... Mofussil Police ...	So much of section forty-two as relates to the limitation of suits.
Act No. XXIII of 1861	... Civil Procedure Code Amendment ...	Section twelve.
Act No. I of 1863	... Civil Courts in British Burma ...	Section twenty-four.
Act No. VI of 1863	... Consolidated Customs Act ...	So much of section two hundred and fourteen as relates to the limitation of suits.
Act No. XXIII of 1863	... Claims to Waste-lands ...	So much of section five as relates to the limitation of suits.

FIRST SCHEDULE—*concluded.*

Number and year.	Subject or title.	Extent of repeal.
Act No. VII of 1865 ...	Government Forests Act ...	So much of section sixteen as relates to the limitation of suits.
Act No. XX of 1866 ...	Registration Act ...	Section fifty-one.
Act No. XIV of 1868 ...	Contagious Diseases Act ...	So much of section twenty-five as relates to the limitation of suits.
Act No. XX of 1869 ...	Volunteers ...	So much of section twenty-two as relates to the limitation of suits.
Act No. X of 1870 ...	Land Acquisition ...	So much of section fifty-eight as relates to the limitation of suits.
Bombay Regulation V of 1827...	A Regulation defining the Limitations, as to Time, within which Civil Actions may be prosecuted, and containing Rules of Judication respecting written Acknowledgments of Debts executed without receipt of a full consideration; also regarding Interest, the tendering payment of Debts, and the disposal of Property mortgaged or pledged.	Section one, clause one.

SECOND SCHEDULE.

(See section 4.)

Description of suit.	Period of limitation.	Time when period begins to run.
1.—Application to set aside an award.	<i>Part I.—Ten days.</i> Ten days ...	When the award is submitted to the Court.
1A.—Complaint, under the Cattle-trespass Act, of an illegal seizure.	Ditto ...	The date of the seizure.
2.—Suit to contest an award of the Board of Revenue under Act No. XXIII of 1853 (<i>to provide for the adjudication of claims to waste-lands</i>).	<i>Part II.—Thirty days.</i> Thirty days ...	The date of the award.
3.—Appeal under the Code of Civil Procedure to the Court of a District Judge.	Ditto ...	The date of the decree appealed against.
3A.—Appeal under the Code of Criminal Procedure to any Court other than the High Court.	Ditto ...	The date of the sentence or order appealed against.
4.—Application by a plaintiff for an order to set aside a judgment by default.	Ditto ...	The date of the judgment.
5.—Application by a defendant for an order to set aside a judgment <i>ex parte</i> .	Ditto ...	The date of executing any process for enforcing the judgment.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part II.—Thirty days,—concluded.</i>	
6.—Application under the Code of Civil Procedure, section two hundred and thirty.	Thirty days ...	The date of the dispossession.
7.—Application to set aside a sale in execution of a decree, on the ground of irregularity in the publishing or conducting the sale.	Ditto ...	The date of the sale.
8.—Application complaining of resistance or obstruction to delivery of possession of immoveable property sold in execution of a decree, or of dispossession in the delivery of possession to the purchaser of such property.	Ditto ...	The date of the resistance, obstruction, or dispossession.
9.—Application for re-admission of an appeal dismissed for want of prosecution.	Ditto ...	The date of the dismissal.
	<i>Part III.—Sixty days.</i>	
9 A.—Appeal to the High Court under the Code of Criminal Procedure.	Sixty days ...	The date of the sentence or order appealed against.
	<i>Part IV.—Ninety days.</i>	
10.—Suit for an act done in pursuance of any enactment in force for the time being in British India.	Ninety days ...	When the act was done.
11.—Appeal to the High Court under the Code of Civil Procedure.	Ditto ...	The date of the decree appealed against.
12.—Application for leave to appeal as a pauper.	Ditto ...	Ditto.
13.—Application to a High Court for the admission of a special appeal.	Ditto ...	Ditto.
14.—Application for a review of judgment.	Ditto ...	The date of the decree.
	<i>Part V.—Six Months.</i>	
15.—Suit under Act No. XIV of 1859 (<i>to provide for the limitation of suits</i>), section fifteen, to recover possession of immoveable property.	Six months ...	When the dispossession occurs.
16.—Claim under Act No. IX of 1860 (<i>to provide for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers</i>), section one.	Ditto ...	When the wages, hire, or price of work claimed accrued due.
17.—Suit under Act No. V of 1866 (<i>to provide a summary procedure on bills of exchange, and to amend, in certain respects, the commercial law of British India.</i>)	Ditto ...	When the bill or promissory note becomes due and payable.
18.—Application under the Code of Civil Procedure, section three hundred and twenty-seven, that an award be filed in Court.	Ditto ...	The date of the award.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part VI.—One Year.</i>	
19.—Suit upon a Statute, Act or Regulation for a penalty or forfeiture.	One year ...	When the penalty or forfeiture is incurred.
20.—Suit for the wages of a domestic servant, artisan or labourer not provided for by No. 16.	Ditto ...	When the wages sued for accrue due.
21.—Suit for the amount of a tavern-bill, or of a bill for board and lodging, or for lodging only.	Ditto ...	When the bill is delivered.
22.—Suit to enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract.	Ditto ...	When the purchaser takes actual possession under the sale sought to be impeached.
23.—Suit for infringing copyright.	Ditto ...	The date of the infringement.
24.—Suit for property seized under Act No. XXV of 1857 (<i>to render officers and soldiers in the Native Army liable to forfeiture of property for mutiny</i>), or for the restoration or recovery of such property, or its proceeds.	Ditto ...	When the property is seized.
25.—Suit by executors, administrators, or representatives under Act No. XII of 1855 (<i>to enable executors, administrators or representatives to sue and be sued for certain wrongs</i>), or under Act No. XIII of 1855 (<i>to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong</i>).	Ditto ...	The date of the death of the person wronged or killed.
26.—Suit for the recovery of the person of a wife.	Ditto ...	When possession is demanded and refused.
27.—Suit for the restitution of conjugal rights.	Ditto ...	When restitution is demanded and refused.
28.—Suit to set aside any of the following sales:— (a) sale in execution of a decree of a Civil Court not established by Royal Charter; (b) sale in pursuance of a decree or order of a Collector or other officer of revenue; (c) sale for arrears of Government revenue or for any demand recoverable as such arrears; and (when the suit is brought by a patnidār or a person claiming under a patnidār) sale of a patnī tāluq sold for current arrears of rent.	Ditto ...	The time that the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.
<i>Explanation.</i> —In this clause 'patnī' includes any intermediate tenure saleable for current arrears of rent, and 'patnidār' includes the proprietor of such tenure.		

SECOND SCHEDULE—*continued.*

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part VI.—One year, —concluded.</i>	
29.—Suit to alter or set aside a summary decision or order of a civil court not established by Royal Charter.	One year ...	The date of the final decision or order in the case by a court competent to determine it finally.
30.—Suit by a person dispossessed under an execution-sale to have his rights declared and for recovery of possession.	Ditto ...	The date of the dispossession.
31.—Suit against Government to set aside any attachment, lease or transfer of immoveable property by the revenue authorities for arrears of Government revenue.	Ditto ...	When the attachment, lease or transfer is made.
32.—Suit against Government to recover money paid under protest in satisfaction of a claim made by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears.	Ditto ...	When the payment is made.
33.—Suit against Government for compensation for land acquired for public purposes, or for compensation when the acquisition is not completed.	Ditto ...	The date of determining the amount of the compensation, or the date of the refusal to complete.
33A.—Application for the execution of a decision (other than a decree or order passed in a regular suit or on appeal) of a Civil court not established by Royal Charter or of a Revenue court.	Ditto ...	The date of the decision or of taking some proceeding to enforce, or keep in force, the decision.
	<i>Part VII.—Two years.</i>	
34.—Suit for false imprisonment. D. B. 30.	Two years ...	When the imprisonment ends.
35.—Suit for any other injury to the person.	Ditto ...	When the injury is committed.
36.—Suit for a malicious prosecution ...	Ditto ...	When the plaintiff is acquitted.
37.—Suit for libel ...	Ditto ...	When the libel is published.
38.—Suit for slander ...	Ditto ...	When the words are spoken.
39.—Suit for trespass upon immoveable property.	Ditto ...	When the trespass takes place.
40.—Suit for obstructing a way or a water-course	Ditto ...	The date of the obstruction.
41.—Suit for diverting a water-course ...	Ditto ...	The date of the diversion.
42.—Suit for taking or damaging moveable property.	Ditto ...	When the taking or damage occurs.
43.—Suit for wrongfully detaining title-deeds.	Ditto ...	When the title to the property comprised in the deeds is adjudged to the plaintiff.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part VII.—Two years,—concluded.</i>		
44.—Suit for wrongfully detaining any other moveable property.	Two years ...	When the detainer's property becomes unlawful.
45.—Suit for specific recovery of moveable property.	Ditto ...	When the property is demanded.
46.—Suit for lost moveable property which the possessor refuses to restore.	Ditto ...	The date of the refusal.
47.—Suit for slander of title to property.	Ditto ...	When damage is caused by the slander.
48.—Suit for loss of service occasioned by the seduction of the plaintiff's servant or daughter.	Ditto ...	When the loss occurs.
49.—Suit for inducing a person to break a contract with the plaintiff.	Ditto ...	The date of the breach.
50.—Suit for an illegal, irregular, or excessive distress.	Ditto ...	The date of the distress.
51.—Suit for wrongful seizure of moveable property under legal process.	Ditto ...	The date of the seizure.
52.—Suit against a carrier for losing or injuring goods.	Ditto ...	When the loss or injury occurs.
53.—Suit against a carrier for delay in delivering goods.	Ditto ...	When the goods ought to be delivered.
54.—Suit against one who, having a right to use property for specific purposes, perverts it to other purposes.	Ditto ...	The time of the perversion.
55.—Suit under Act No. XII of 1855 (<i>to enable executors, administrators or representatives to sue and be sued for certain wrongs</i>) against an executor, administrator or other representative.	Ditto ...	When the wrong complained of is committed.
56.—Suit for compensation for any wrong, malfeasance, nonfeasance or misfeasance independent of contract and not herein specially provided for.	Ditto ...	When the default happens.
<i>Part VIII.—Three years.</i>		
57.—Suit to contest an award under any of the following Regulations of the Bengal Code:— VII of 1822, IX of 1825, and IX of 1833.	Three years ...	The date of the final award or order in the case.
58.—Suit to recover any property comprised in such award.	Ditto ...	Ditto.

SECOND SCHEDULE—*continued.*

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part VIII.—Three years,—continued.</i>		
59.—Suit by any person bound by an order respecting the possession of property made under Act No. XVI of 1838, section one, clause two, or Act No. XXV of 1861, chapter twenty-two, or by any one claiming under such person, to recover the property comprised in such order.	Three years ...	The date of the final order in the case.
60.—Suit for the hire of animals, vehicles, boats or household furniture.	Ditto ...	The date of the hiring.
61.—Suit for the balance of money advanced in payment of goods to be delivered.	Ditto ...	When the goods ought to be delivered.
62.—Suit for the price of goods sold and delivered, where no fixed period of credit is agreed upon.	Ditto ...	The date of the delivery of the goods.
63.—Suit for the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Ditto ...	The expiry of the period of credit.
64.—Suit for the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Ditto ...	When the period of the proposed bill elapses.
65.—Suit for the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Ditto ...	The date of the sale.
66.—Suit for the price of work done by the plaintiff for the defendant at his request.	Ditto ...	When the work is done.
67.—Suit for money payable for money lent or for money lent under an agreement that it shall be payable on demand.	Ditto ...	When the loan is made.
68.—Suit for money payable to the plaintiff for money paid for the defendant.	Ditto ...	When the money is paid.
69.—Suit for money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	Ditto ..	When the money is received.
70.—Suit for money payable for interest upon money due from the defendant to the plaintiff where there is no registered agreement in writing to pay the interest.	Ditto ...	When the interest becomes due.
71.—Suit for money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Ditto ...	When the accounts are stated, unless where the debt is made payable at a future time and then when that time arrives.
72.—Suit upon a promise to do anything at a specified time, or upon the happening of a specified contingency.	Ditto ...	At the time specified or upon the contingency happening.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part VIII.—Three years,—continued.</i>	
73.—Suit upon a judgment not obtained in British India.	Three years ...	The date of the judgment.
74.—Suit against a factor for an account.	Ditto ...	When the account is demanded.
75.—Suit on a bill of exchange or promissory note payable at a fixed time after date.	Ditto ...	When the bill or note falls due.
76.—Suit on a bill of exchange payable at or after sight.	Ditto ...	When the bill is presented.
77.—Suit on a bill of exchange accepted payable at a particular place.	Ditto ...	When the bill is presented at that place.
78.—Suit on a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Ditto ...	When the fixed time expires.
79.—Suit on a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Ditto ...	The date of making or accepting.
80.—Suit by the endorsee of a promissory note against the endorser.	Ditto ...	The date of the endorsement.
81.—Suit on a promissory note or bond payable by instalments.	Ditto ...	The expiration of the first term of payment, as to the part then payable; and, for the other parts, the expiration of the respective terms of payment.
82.—Suit on a promissory note or bond payable by instalments, which provides that if default be made in payment of one instalment the whole shall be due.	Ditto ...	The time of the first default.
83.—Suit on a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Ditto ...	The time of the delivery to the payee.
84.—Suit on a dishonoured foreign bill where protest has been made and notice given.	Ditto ...	When the notice is given.
85.—Suit by the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.	Ditto ...	The date of the refusal to accept.
86.—Like suit when the bill has been dishonoured by non-acceptance and afterwards by non-payment.	Ditto ...	Ditto.
87.—Suit by the acceptor of an accommodation-bill against the drawer.	Ditto ...	When the acceptor pays the amount.
88.—Suit by a surety against the principal debtor.	Ditto ...	When the surety first pays the creditor.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part VIII.—Three years,—continued.</i>		
89.—Suit by a surety against a co-surety.	Three years ..	When the plaintiff first pays anything in excess of his own share.
90.—Suit upon any other contract to indemnify.	Ditto ...	When the plaintiff is actually damaged.
91.—Suit by an attorney or vakil for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid.	Ditto ...	The termination of the suit or business, or (where the attorney or vakil properly discontinues the suit or business) the date of such discontinuance.
92.—Suits for compensation for damages caused by an injunction wrongfully obtained.	Ditto ...	When the injunction ceases.
93.—Suit for the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Ditto ...	The time of the last item admitted or proved in the account.
94.—Suit on a policy of insurance when the sum assured is payable after proof of the death or loss has been given to or received by the insurers.	Ditto ...	When proof of the death or loss is given or received, to or by the insurers, whether by or from the plaintiff, or any other person.
95.—Suit by the assured to recover premia paid under a policy voidable at the election of the insurers.	Ditto ...	When the insurers elect to avoid the policy.
96.—Suit by a principal against his agent for moveable property received by the latter and not accounted for.	Ditto ...	When the account is demanded and refused.
97.—Other suits by principals against agents for neglect or misconduct.	Ditto ...	When the neglect or misconduct occurs.
98.—Suit to cancel or set aside an instrument not otherwise provided for.	Ditto ...	When the instrument is executed.
99.—Suit to declare the forgery of an instrument issued, or registered, or attempted to be enforced.	Ditto ...	The date of the issue, registration, or attempt.
100.—Suit for property which the plaintiff has conveyed while insane.	Ditto ...	When the plaintiff is restored to sanity and has knowledge of the conveyance.
101.—Suit for relief on the ground of fraud.	Ditto ...	When the fraud becomes known to the party wronged.
102.—Suit for relief on the ground of mistake in fact.	Ditto ...	When the mistake becomes known to the plaintiff.
103.—Suit for money paid upon an existing consideration, which afterwards fails.	Ditto ...	The date of the failure.
104.—Suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Ditto ...	The date of the trustee's death.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part VIII.—Three years,—continued.</i>		
105.—Suit for contribution by a party who has paid the whole amount due under a joint decree payable by rateable shares.	Three years ...	The date of the plaintiff's advance in excess of his own share.
106.—Suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Ditto ...	When the right to contribution accrues.
107.—Suit for a seaman's wages. ...	Ditto ...	The end of the voyage during which the wages are earned.
108.—Suit by a Muhammadan for exigible dower (<i>mu'ajjal</i>).	Ditto ...	When the dower is demanded and refused, or (where during the continuance of the marriage no such demand has been made) when the marriage is dissolved by death or divorce.
109.—Suit by a Muhammadan for deferred dower (<i>muwajjal</i>).	Ditto ...	When the marriage is dissolved by death or divorce.
110.—Suit by a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee.	Ditto ...	The date of the satisfaction of the mortgage.
111.—Suit for an account and a share of the profits of a dissolved partnership.	Ditto ...	The date of the dissolution.
112.—Suit by a Hindú manager of a joint estate for contribution in respect of a payment made by him on account of the estate.	Ditto ...	The date of the payment.
113.—Suit to set aside a decree obtained by fraud.	Ditto ...	The date of the decree.
114.—Suit by a lessor for the value of trees cut down by his lessee contrary to the terms of the lease.	Ditto ...	When the trees are cut down.
115.—Suit for the profits of land belonging to the plaintiff wrongfully received by the defendant.	Ditto ...	When the profits are received.
116.—Suit for arrears of rent, <i>málikáná</i> and <i>toda garás</i> .	Ditto ...	When the arrears become due.
117.—Suit by a vendor of land to enforce his lien for unpaid purchase-money.	Ditto ...	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
118.—Suit for specific performance of a contract.	Ditto ...	When the plaintiff has notice that his right is denied.
119.—Suit for the rescission of a contract...	Ditto ...	When the contract is executed by the plaintiff.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part VIII.—Three years,—concluded.</i>		
120.—Suit for the breach of any contract, express or implied, not in writing registered.	Three years ...	When the contract is broken, or (where there are successive breaches) when the breach sued for occurs, or (where the breach is continuing) when it ceases.
121.—Application for the execution of a decree or order of a court not established by Royal Charter.	Ditto ...	The date of the decree or order, or (when the application next hereinafter mentioned has been made) the date of applying in good faith to the court to enforce, or keep in force, the decree or order, or (when the notice next hereinafter mentioned has been issued) the date of issuing in good faith a notice under the Code of Civil Procedure, section two hundred and sixteen, or (where there has been an appeal) the date of the final decree or order of the Appellate Court, or (where there has been a review of judgment) the date of the decision passed on the review.
122.—Application for the execution of any such decree or order within the local limits of the ordinary original civil jurisdiction of a court established by Royal Charter.	Ditto ...	The date of filing in such Court the copy of the decree or order.
<i>Part IX.—Six years.</i>		
123.—Suit on a promise or contract in writing registered.	Six years ...	When the right to sue accrues. <i>Explanation.</i> —In the case of a suit of any of the descriptions mentioned in Part VI or Part VIII of this schedule, the right to sue shall be deemed to accrue at the time fixed by the third column for such description of suit.
124.—Suit for which no period of limitation is provided elsewhere in this schedule.	Ditto ...	Ditto.
<i>Part X.—Twelve years.</i>		
125.—Suit by an auction purchaser or any one claiming under him to avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, the estate being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years ...	When the sale becomes final and conclusive.
126.—Suit to avoid incumbrances or under-tenures in a <i>patni taluq</i> or other saleable tenure sold for arrears of rent, the taluq or tenure being, by virtue of such sale, freed from incumbrances and under-tenures.	Ditto ...	When the sale becomes final and conclusive.
127.—Suit upon a judgment obtained in British India, or a recognizance.	Ditto ...	The date of the judgment or recognizance.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part X.—Twelve years,—continued.</i>		
128.—Suit in a case governed by English law for the breach of a contract by specialty.	Twelve years ...	When the contract is broken.
129.—Suit for a legacy.	Ditto ...	When the legacy becomes payable or deliverable.
130.—Suit for an hereditary office.	Ditto ...	When the defendant, or some person through whom he claims, took adverse possession of the office.
131.—Suit by a landlord to recover possession from a tenant.	Ditto ...	When the tenancy is determined.
132.—Suit in a Court not established by Royal Charter by a mortgagee for possession of immoveable property mortgaged.	Ditto ...	When the mortgagee is first entitled to possession.
133.—Suit by a purchaser at a private sale for possession of the immoveable property sold, when the vendor was out of possession at the date of the sale.	Ditto ...	When the vendor is first entitled to possession.
134.—Like suit by a purchaser at a sale in execution of a decree, when the execution-debtor was out of possession at the date of the sale.	Ditto ...	When the execution-debtor is first entitled to possession.
135.—Suit by a purchaser of land at a sale in execution of a decree, for possession of the purchased land, when he never has had possession.	Ditto ...	The date of the sale.
136.—Like suit when the purchaser had possession, but was afterwards dispossessed.	Ditto ...	The date of the dispossession.
137.—Suit by a <i>mírásídár</i> to recover possession of <i>mírás</i> land, which his ancestor had resigned to Government, from a holder to whom Government had subsequently granted it.	Ditto ...	When the land was resigned.
138.—Suit by a remainderman, a reversioner, or an executory devisee, for possession of immoveable property.	Ditto ...	When his estate falls into possession.
139.—Like suit by a Hindú entitled to the possession of immoveable property on the death of a Hindú widow.	Ditto ...	When the widow dies.
140.—Suit by a Hindú governed by the law of the <i>Mitákshará</i> to set aside his father's alienation of ancestral property.	Ditto ...	The date of the alienation.
141.—Like suit by a Hindú governed by the law of the <i>Dáyabhága</i> .	Ditto ...	When the father dies.
142.—Suit during the life of a Hindú widow by a Hindú entitled to the possession of land on her death to have an alienation made by the widow declared to be void except for her life.	Ditto ...	When the alienation took place.

SECOND SCHEDULE—*continued.*

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part X.—Twelve years,—concluded.</i>	
143.—Like suit after the widow's death ...	Twelve years ...	The date of the death.
144.—Suit by a Hindú excluded from joint-family property to enforce a right to share therein.	Ditto ...	<p>In the case of a Hindú governed by the law of the Dáyabhága, the date of the death of the person from whom the property is alleged to have descended.</p> <p>In the case of any other Hindú, the date of the last payment to the plaintiff on account of the share by the person in possession or management of the property, not in any way on behalf of the plaintiff.</p>
145.—Suit by a Hindú for maintenance.	Ditto ...	When the maintenance sued for is claimed and refused.
146.—Suit to set aside an adoption ...	Ditto ...	The date of the adoption.
147.—Suit for the resumption or assessment of rent-free land.	Ditto ...	<p>When the right to resume or assess the land first accrued :</p> <p>Provided that no such suit shall be maintained where the land forms part of a permanently-settled estate, and has been held rent-free from the time of the Permanent Settlement.</p>
148.—Suit to establish a periodically recurring right.	Ditto ...	When the plaintiff is first denied the enjoyment of the right.
149.—Suit for money charged upon or payable out of immoveable property.	Ditto ...	When the money becomes due.
150.—Suit for immoveable property or any interest therein not hereby otherwise specially provided for.	Ditto ...	When the defendant, or some person through whom he claims, took adverse possession of the property.
151.—Application to enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction.	Ditto ...	<p>When a present right to enforce the judgment, decree or order accrued to some person capable of releasing the right :</p> <p>Provided that, when the judgment, decree or order has been revived, or some part of the principal money secured thereby, or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing signed by the person liable to pay such principal or interest or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment, or the latest of such revivors, payments or acknowledgments, as the case may be.</p>

SECOND SCHEDULE—*concluded.*

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part XI.—Thirty years.</i>	
152.—Suit against a depositary or pawnee to recover moveable property deposited or pawned.	Thirty years ...	The date of the deposit or pawn, unless where an acknowledgment of the title of the depositor or pawnor, or of his right of redemption, has been made in writing signed by the depositary, or pawnee, or some person claiming under him, and, in such case, the date of the acknowledgment.
153.—Suit to recover moveable property conveyed in trust, deposited or pawned and afterwards bought from the trustee, depositary or pawnee in good faith and for value.	Ditto ...	The date of the purchase.
	<i>Part XII.—Sixty years.</i>	
154.—Suit against a mortgagee to recover immoveable property mortgaged.	Sixty years ...	The date of the mortgage, unless where an acknowledgment of the title of the mortgagor or of his right of redemption has been made in writing signed by the mortgagee or some person claiming under him, and, in such case, the date of the acknowledgment.
155.—Suit to recover immoveable property conveyed in trust or mortgaged and afterwards purchased from the trustee or mortgagee in good faith and for value.	Ditto ...	The date of the purchase.
156.—Suit before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged.	Ditto ...	When any part of the principal or interest was last paid on account of the mortgage debt.
157.—Any suit in the name of the Secretary of State for India in Council.	Ditto ..	When the right to sue accrued.

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Nothing hereinafter contained shall be deemed to have the force of law.

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STATEMENT OF OBJECTS AND REASONS.

Though the Limitation Act (XIV of 1859) has not been in force for eight years, its twenty-four sections have given rise to more than a thousand reported cases, of which many are inconsistent and some directly conflicting. The time therefore appears to have arrived for attempting to redraw and re-arrange the Act so as to render the law on so important a subject certain, simple and easily ascertainable.

The present Bill is arranged on the following principle. In determining whether a given suit is barred by limitation, three matters, and three only, need, as a rule, be considered. These are, first, the class to which the suit belongs; secondly, the period of limitation prescribed therefor, and, thirdly, the time when that period begins to run. Most of the difficulties which arise in applying the Limitation Act are caused by the third of these considerations. The framers of the Act, it is true, have in some cases expressly fixed the time at which the period of limitation shall be taken to commence. But as to suits for wages, hire, the price of goods sold by retail, and damages for several kinds of wrong, and as to the other innumerable suits for which no period is specially provided, they have contented themselves with declaring that the period runs "from the time the cause of action arose." To say when a cause of action arises is sometimes difficult, and the great feature of the present measure is its attempt to preclude this difficulty. The bulk of the Bill accordingly consists of a schedule of the commonest suits, shewing, in the case of each, (1) the period of limitation applicable thereto, and (2) the time when that period begins to run. Easy access to the contents of this schedule is given by a copious alphabetical index.

The Bill also repeals and re-enacts the limitation-rules as to suits under Acts in force throughout British India, as well as the provisions contained in the Code of Civil Procedure as to the time within which appeals and certain applications to Courts must be presented and made. The Bill provides (Schedule II, No. 121) for applications for the execution of decrees of mofussil Courts within the local limits of the ordinary original civil jurisdiction of the High Courts. This will supply an omission in the law which has lately been pointed out by the High Court of Madras (5 Mad. H. C. Rep. 219).

The other provisions of the Bill will now be noticed.

Act XIV of 1859, section 1, declares that "no suit shall be maintained unless the same is instituted within the period of limitation hereinafter made applicable to a suit of that nature." Upon this section many questions have arisen; as to the effect of pleading limitation; whether the plea can be considered on appeal where it has not been set up in the Court of first instance, and whether there is, in this respect, any distinction between regular and special appeals. The corresponding provision of the Bill (section 4) is, it is hoped, so framed as to preclude such questions.

The explanation to section 4 of the Bill enacts (in accordance with decisions of the High Court at Fort William) that a suit shall be considered as instituted, in ordinary cases, when the plaint is presented to the proper officer; in the case of a pauper, when his application to sue as such is filed, and in the case of a claim against a Company which is being wound up by the Court, when the claimant applies to the official liquidator.

Section 5 provides for the case where a period of limitation expires when the Court is closed, empowers the Court, in proper cases, to admit an appeal or an application for review after the period applicable thereto, and declares, in accordance with a decision of Sir B. Peacock's, that an appeal once admitted shall not be dismissed as late.

The section (7) on legal disability, in accordance with the original draft of Act XIV, omits the case of coverture. The identity of interests between husband and wife, even where the Indian Succession Act does not apply, will suffice to secure attention to her claims against third parties. The section provides for the case of two disabilities existing when the right to sue accrues.

Sections 8 and 9 embody the English law as to the effect of the disability of a joint creditor or claimant, and as to the continuous running of time.

In computing the period of limitation, contradictory rulings have been made as to whether the day on which the cause of action arose should be excluded. The Bill, section 10, settles this question in the affirmative.

Section 11—as to the effect of a defendant's absence from British India—is equivalent to Act XIV of 1859, section 13. But the words 'for any suit' have been introduced so as to preclude (in accordance with a decision of the Madras High Court) the application of this provision to the execution of decrees.

To section 12—as to the effect of suing *bonâ fide* in a wrong court—have been added explanations to shew, (1) that, in excluding the time during which a former suit was pending, the day on which that suit was instituted and the day on which the proceedings therein ended, shall both be counted, and (2) that a plaintiff resisting an appeal presented on the ground of

want of jurisdiction shall be deemed to be prosecuting a suit within the meaning of the section. These provisions accord with the rulings in *Hurro Soonduree Dabee v. Kally Mohun* and in *Shumboonath Biswas v. Kistodhone Sircar* cited in the second edition of Mr. Thomson's work on Act XIV, pp. 288, 292.

No provision is made in Act XIV for a case where the commencement of a suit is stayed by injunction. Section 13 of the Bill provides (in accordance with the New York Code of Civil Procedure, section 589) that, in such case, the time that the injunction continues is no part of the period limited for the institution of the suit.

Section 14 declares, in accordance with the decision in *Gopal Chunder Ghose v. Raj Chunder Dutt*, 2 W. R. Mis. 9, that, in computing the period prescribed for a suit for possession by an execution-purchaser, the time during which the judgment-debtor has been suing to set aside the sale shall be excluded.

Section 15, in accordance with English cases, declares that when a person who would, if alive, have a right to sue, dies before the accrual, time shall begin to run as soon as he is represented in interest. So, where a person against whom, if alive, a right to sue would have accrued, dies before the accrual, time will begin running when there is a representative whom the plaintiff may sue.

Section 16—as to the effect of fraud—is equivalent to Act XIV of 1859, section 9.

Section 17—as to the effect of an acknowledgment or promise in writing—settles, by the explanation and illustrations added thereto, several doubts which have arisen on the corresponding section (4) of Act XIV. It declares, in accord with the English case of *Edmonds v. Downes*, 2 C. & M. 459, 463, that where the acknowledgment is undated, oral evidence may be given of the time it was signed. But it also declares (herein contravening *Haydon v. Williams*, 7 Bing. 163) that when the acknowledgment is destroyed or lost, oral evidence of its contents shall not be received. It declares, in the 'explanation,' that an acknowledgment may be sufficient though it omits to specify the exact amount of the debt, or avers that the time for payment has not come, or sets up limitation as a bar, or is accompanied by a refusal to pay, or is coupled with a claim to a set-off, or, lastly, is addressed to any person other than the creditor.

Doubts have arisen as to how limitation should be applied when, after the institution of a suit, a new plaintiff or defendant is substituted or added. Section 18 contains rules on this subject, which accord with the decisions in 6 W. R. 298 and 10 W. R. 317.

Section 19 states the rules of English law as to the computation of time, (1) where there are successive breaches of contract, and (2) where a breach of contract or a nuisance is continuing.

Section 20 embodies the English law as to suits for compensation for a lawful act which from subsequently causing damage, becomes unlawful.

When a decree directs payment to be made by instalments at specified dates, section 21 declares (in accordance with two decisions of the Bombay High Court) that, for the purpose of computing the time within which application may be made to enforce each instalment, the date when it becomes due shall be deemed the date of the decree.

Section 22 (also in accordance with a decision of the Bombay High Court) provides that in the absence of evidence to the contrary, an instrument made by a Native shall, for the purposes of the Limitation Act, be deemed to be made with reference to the calendar ordinarily employed by him.

Except in the Bombay Presidency (see Bombay Regulation V of 1827, section 1, clause 1) Indian statute-law contains no distinct enactment on the subject of the acquisition of title by prescription. Part IV of the Bill attempts to supply this want. It begins (section 23) by defining what constitutes adverse possession by a claimant of land or of an hereditary office. It then declares (section 24) how long the possession of a tenant, an agent or a servant shall be deemed the possession of his landlord, principal or master, and it concludes (section 25) by providing, in accordance with the New York Civil Code, section 441, and with 3 & 4 Wm. IV., c. 27, section 34, that adverse uninterrupted possession for the period limited in the case of any suit for the recovery of property confers a title thereto which is sufficient against all.

Part V of the Bill contains some miscellaneous provisions. Section 26 declares that suits against express trustees and their representatives, for the purpose of following trust-property, shall not be barred by any lapse of time. The section has been so framed as to preclude its application to cases of implied or constructive trust. Section 27 states the only case in which the Courts of this country can be required to give effect to a foreign rule of limitations. And section 28 declares that suits on contracts entered into abroad shall, here, be subject to the Indian limitation law, part of the *lex fori*. This is in accordance with *Huber v. Steiner*, 2 Scott 304.

To the Bill are appended two Schedules. The first comprises all the enactments relating to limitation and extending to British India which have not hitherto been expressly repealed. Of these, the first mentioned, 21 Jac., c. 16, was held in *The East India Co. v. Paul* (7 Moo. P. C. C. 85) to extend to India. Act XIV of 1859 is of course repealed, with the exception of one section (15) whose proper place is in the Code of Civil Procedure.

The second Schedule is divided into twelve parts corresponding with the twelve periods of limitation prescribed for the suits, appeals and applications to which the Act extends. Part IV provides a period of ninety days for all suits for acts done in pursuance of enactments in force in British India. Part VII provides a period of two years for suits for all wrongs independent of contract. Part VIII fixes a period of three years for suits on contracts not in writing registered. Where the contract is in writing and registered, the period will (under Part IX) be six years. So in the case of all suits for which no period of limitation is specially provided. Part XI and the first three clauses of Part XII state the law as laid down in Act XIV, section 1, clause 15, and sections 5 and 6. But as there is now nowhere in British India any special provision limiting public claims by Government, the last clause of Part XII proposes, in accordance with Bengal Regulation II of 1805, section 2, to fix a period of sixty years for suits in the name of the Secretary of State in Council.

It is right, in conclusion, to acknowledge the great assistance derived, in framing this Bill, from Mr. Ninian Thomson's work on Act XIV of 1859.

SIMLA,
The 20th September 1870. }

J. F. STEPHEN.

WHITLEY STOKES,
Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd December 1870, and was referred to a Select Committee with instructions to make their report thereon in six weeks:—

No. 28 OF 1870.

A Bill for the Registration of Criminal Tribes and Eunuchs.

WHEREAS it is expedient to provide for the registration, surveillance and control of certain criminal tribes and eunuchs; It is hereby enacted as follows:—

Part I.—Preliminary.

1. This Act may be called "The Criminal Tribes' Act, 1870."

This section and section nine extend to the whole of British India: the rest of this Act extends only to the territories respectively under the governments of the Lieutenant-Governors of the North-Western Provinces and the Panjáb and under the administration of the Chief Commissioner of Oudh.

This Act shall come into force on the passing thereof.

Part II.—Criminal Tribes.

2. The Local Government may declare any tribe, gang or class of persons reasonably suspected of being addicted to the commission of theft or robbery, and having a fixed place of residence during the whole or any part of the year, to be a criminal tribe, gang or class, and may direct the Magistrate of any District in which such tribe, gang or class, or any part thereof, resides to make a register of the members of such tribe, gang or class in a form to be prescribed by the Local Government.

3. Upon receiving such direction, the said Magistrate shall publish a notice in the place where the register is to be made, calling upon all the members of the tribe, gang or class to appear, at a time and place therein specified, before such persons as he appoints, and to give those persons such information as may be necessary to enable them to make the register in the form aforesaid.

Any member of any such tribe, gang or class failing to appear according to such notice, or intentionally omitting to furnish such information, or furnishing, as true, information on the subject which he knows or has reason to believe to be false, shall be deemed guilty of an offence under section one hundred and seventy-four, or one hundred and seventy-six, or one hundred and seventy-seven of the Indian Penal Code, as the case may be.

4. The register, when made, shall be kept by the officer in charge of such Police Station as the said Magistrate from time to time directs.

5. The officer keeping the register shall from time to time report to the said Magistrate any alterations which ought to be made therein, either by way of addition or omission.

6. Any person deeming himself aggrieved by any entry made or proposed to be made in such register may complain to the said Magistrate, and the Magistrate shall retain such person's name on the register, or erase it therefrom, or enter it thereupon as he may see fit.

7. When the register has been formed, no alteration shall be made therein except by or by order of the said Magistrate, and he shall write his initials against every such alteration.

8. The Local Government may, with the previous consent of the Governor or General in Council, make rules binding upon all persons whose names may, for the time being, be upon such register.

Such rules may prescribe—

1st, the limits within which persons whose names are on the register shall reside;

2nd, conditions as to holding passes, under which such persons may be permitted to leave the said limits; and

3rd, conditions as to answering at roll-call or otherwise, in order to satisfy the said Magistrate, or persons authorized by him, that the persons whose names are on the register are actually present at given times within the said limits.

Any person violating any of the said rules shall, on conviction before a Magistrate, be punished with rigorous imprisonment for a term which may extend to six months, or with fine, or with whipping, or with all or any two of those punishments.

9. Any person so registered, who is found in any part of India beyond the limits so prescribed for his residence, without such pass as may be required by the said rules, may be arrested without warrant by any Police Officer, and taken before a Magistrate, who may order him to be removed to the District in which he ought to have resided, there to be dealt with according to the rules under this Act in force for the time being.

The rules for the time being in force for the transmission of prisoners shall apply to all persons removed under this section.

Part III.—Eunuchs.

10. The Local Government shall cause the following registers to be made and kept up by such officer as from time to time it appoints in this behalf:—

(a) A register of the names and residences of all eunuchs residing in any town or place to which the Local Government specially extends this Part of this Act, who are reasonably suspected of kidnapping or castrating children, or of committing offences under the Indian Penal Code, section three hundred and seventy-seven, or of abetting, within the meaning of the same Code, the commission of any of the said offences; and

(b) a register of the property of such of the said eunuchs as, under the provisions hereinafter contained, are required to furnish information as to their property.

The Local Government may from time to time make rules for the making and keeping up and charge of such registers, and may, if it think fit, direct the name of any eunuch to be erased therefrom.

Penalty on registered eunuch appearing in female clothes;

11. Any eunuch so registered who appears in female clothes in any public street or place,

or who dances or plays music, or takes part in any public exhibition, in any public street or place, or for hire in any private house,

shall, upon conviction before a Magistrate, be punished with imprisonment for a term which may extend to two years, or with fine, or with whipping, or with all or any two of those punishments.

12. Any eunuch so registered who has in his charge, or keeps in his house or under his power or control, any boy who has not completed the age of sixteen years, shall, upon conviction before a Magistrate, be punished with imprisonment for a term which may extend to two years, or with whipping, or with both.

Disabilities of registered eunuchs.

13. No eunuch so registered shall be capable—

- (a) of being or acting as guardian to any minor;
- (b) of making a gift;
- (c) of making a will, or
- (d) of adopting a son.

14. Any officer authorized by the Local Government in this behalf may, from time to time, require any eunuch so registered to furnish information as to all property, whether moveable or immovable, of or to which he is possessed or entitled, or which is held in trust for him.

Any such eunuch intentionally omitting to furnish such information, or furnishing, as true, information on the subject which he knows or has reason to believe to be false, shall be deemed to have committed an offence under section one hundred and seventy-six or one hundred and seventy-seven of the Indian Penal Code, as the case may be.

Part IV.—Miscellaneous.

15. All sentences of whipping under this Act shall be executed in manner, and subject to the precautions, prescribed in sections ten and eleven of Act No. VI of 1864.

16. No suit or other proceeding shall be maintained against any person in respect of anything done by him in good faith pursuant to this Act.

17. All Magistrates and other persons are hereby indemnified for anything done under the circular order 18 of 1856 of the Judicial Commissioner of the Panjáb, and no suit or other proceeding shall be maintained against any such Magistrate or other person in respect of anything so done.

STATEMENT OF OBJECTS AND REASONS.

Various tribes in the North-Western Provinces, the Panjáb and Oudh carry on theft and robbery systematically. They live quietly for part of the year in their own Districts, but they spend the rest of it in wandering about the country plundering, and on their return divide their gains according to a fixed rule. In the North-Western

Provinces alone, there are twenty-nine tribes who support themselves in the manner above described.

The first object of the present Bill is to provide for the formation of a register of the members of the tribes in question. They will be compelled, by Rules which the Local Government is empowered to make, to reside within certain fixed limits, forbidden to leave those limits without permission, and if found beyond them, apprehended by the Police and sent to the place where they ought to live. Like rules were till lately enforced, with excellent results, in the Panjáb; but the Chief Court has recently decided that these rules were unauthorized by law.

The second object of the Bill is to crush an association of eunuchs in the North-Western Provinces, who carry on a system of unnatural prostitution, and perpetuate their class by kidnapping and castrating boys.

The Bill provides for the registration of the names, residences and property of all eunuchs reasonably suspected of committing these offences; imposes penalties on any registered eunuch who appears in public in female clothes, who dances in public or for hire, or who keeps in his control any boy under the age of sixteen. It also deprives such eunuchs of the power of becoming guardians to minors, of making gifts and wills, and of adopting sons.

J. F. STEPHEN.

The 23rd November 1870.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd December 1870 :—

No. 29 OF 1870.

A Bill to repeal the law relating to the General Funds of the Courts of Small Causes at the Presidency Towns.

WHEREAS by Act No. IX of 1850 (*for the more easy Recovery of small Debts and Demands in Calcutta, Madras and Bombay*), section nineteen, it was (amongst other things) enacted that the fees therein mentioned should be paid over to an account to be termed the General Fund of the Court; and whereas no such payment has ever been made and no such account has ever been opened; and whereas it is expedient that the said enactment should be expressly repealed so far as relates to such payment and account; It is hereby enacted as follows :—

1. The following words of the said section are hereby repealed (that is to say) :—“which fees shall be paid over to an account to be termed the General Fund of the Court.”

2. All officers and other persons are hereby indemnified for omitting to make such payment or to open or keep such account; and no suit or other proceeding shall be maintained against any such

officer or other person in respect of any such omission.

STATEMENT OF OBJECTS AND REASONS.

Act IX of 1850, section 19, provides that the fees received by each of the Courts of Small Causes at the Presidency Towns shall be paid over to a Fund termed the General Fund of the Court. This provision has remained a dead letter: the charges of the Courts have hitherto been defrayed by the State; and the fees in question have always been credited to the State as “Judicial Receipts” or “Law and Justice.” It is clearly desirable to render this practice legal and to continue to treat the receipts and charges of the Presidency Courts of Small Causes in the same manner as the receipts and charges of the other Courts in British India. The Bill accordingly repeals the provision above referred to and indemnifies all officers for omitting to obey it.

R. TEMPLE.

The 19th November 1870.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd December 1870 :—

No. 30 OF 1870.

A Bill to extend the Prisons' Act, 1870, to Coorg.

For the purpose of extending the Prisons' Act, 1870, to Coorg: It is hereby enacted as follows :—

1. The said Act shall extend to the territories under the administration of the Chief Commissioner of Coorg, but subject to the following modifications (that is to say) :—

(a.) The preamble and sections one and six shall be construed as if, after the words ‘Central Provinces,’ the word ‘Coorg’ were inserted.

(b.) Section one shall be construed as if, for the words and figures ‘December, 1870,’ the words and figures ‘January, 1871’ were substituted.

STATEMENT OF OBJECTS AND REASONS.

No Jail Code having been laid down for guidance in Coorg, the present Bill, which has been framed at the suggestion of the Chief Commissioner, extends to that Province the recently passed Prisons' Act, No. XXVI of 1870.

F. S. CHAPMAN.

The 18th November 1870.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd December 1870 :—

No. 31 OF 1870.

A Bill to authorise the committal of European British subjects by Courts in the Andamans to the High Court at Fort William.

WHEREAS Act No. XXI of 1863 (*to constitute Preamble. Recorders' Courts for the Towns of Akyab, Rangoon and Moulmein in British Burmah, and to establish Courts of Small Causes in the said towns*), section forty-one, enacts that European British subjects arrested for, or guilty of, certain offences in the Tenasserim Provinces shall be committed to, and tried by, the Recorder at Maulmain; And whereas the Andaman Islands form part of the said Provinces; And whereas it is expedient that the jurisdiction so given to the Recorder at Maulmain should, so far as regards the said Islands, be transferred to the High Court of Judicature at Fort William; It is hereby enacted as follows :—

1. Every European British subject charged in the Andaman Islands with any offence (other than an offence punishable with death under the Indian Penal Code) which a Justice of the Peace is not competent to punish, shall, if there be sufficient grounds for committing him for trial, be committed to, and tried by, the said High Court in the exercise of its ordinary original criminal jurisdiction.

2. Act No. XXI of 1863, section forty-one, so far as it relates to the Andaman Islands, is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

The Andaman Islands being attached to the Tenasserim Commissionership, under the Burma Recorders Courts' Act (XXI of 1863), section 41, European British subjects charged in those Islands with offences not punishable with death or by a Justice of the Peace, are committed to the Recorder at Maulmain.

As there are now no regular means of communication between the Andamans and British Burma, the present Bill has been prepared in order to transfer the jurisdiction thus conferred from the Recorder of Maulmain to the High Court at Fort William.

The Bill has been prepared at the suggestion of the Superintendent of Port Blair and the Nicobars.

F. S. CHAPMAN.

The 19th November 1870.

WHITLEY STOKES,
Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd December 1870, and was referred to a Select Committee with instructions to make their report thereon in six weeks :—

No. 32 OF 1870.

A Bill to authorize the extension of the Chaukidari Act to places where there is no Jamadar of Police.

WHEREAS by Act No. XX of 1856 (*to make better provision for the appointment and maintenance of Police chowkeydars in Cities, Towns, Stations, Suburbs and Bazaars in the Presidency of Fort William in Bengal*), section two, the Local Government is restrained from extending that Act to any City, Town, Suburb, or Bazaar unless there be therein (or in some other City, Town, Suburb, or Bazaar with which the same may be united as hereinafter provided) a Police station under an officer of a grade not below that of a jamadar; And whereas it is expedient to remove such restriction; It is hereby enacted as follows :

1. In Act No. XX of 1856, section two, the following words are repealed:—
Repeal of part of section 2, Act No. XX (that is to say) "to any City, Town, Suburb, or Bazaar, unless there be therein (or in some other City, Town, Suburb, or Bazaar with which the same may be united as hereinafter provided) a Police station under an officer of a grade not below that of jemadar, nor"

STATEMENT OF OBJECTS AND REASONS.

The Local Governments are expressly forbidden to extend the Chaukidari Act (XX of 1856) to any town in which there is not a Police station under an officer of a grade not below that of a jamadar. The recent reductions of the police have greatly diminished the number of stations at which there are jamadars; and it is often desirable to extend the Act to towns where there are no Government constables, or where, at least, there is no jamadar.

The present Bill therefore proposes to repeal so much of section 2 of the Act as requires that police of a fixed strength must exist in the town before the provisions of the law can be extended thereto. The Bill has been prepared at the suggestion of the Government of the North-Western Provinces, and with the approval of the Governments of Bengal and the Panjab.

F. S. CHAPMAN.

The 17th November 1870.

WHITLEY STOKES,
Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th December 1870, and was referred to a Select Committee with instructions to make their report thereon in three months:—

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CRIMINAL PROCEDURE BILL.

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A BILL FOR REGULATING THE PROCEDURE OF THE COURTS OF CRIMINAL JUDICATURE NOT ESTABLISHED BY ROYAL CHARTER.

WHEREAS it is expedient to consolidate and amend the law regulating the Procedure of the Courts of Criminal Judicature not established by Royal Charter; It is hereby enacted as follows:—

PRELIMINARY.

Short title. 1. This Act may be called "The Code of Criminal Procedure."

Local extent. It extends to the whole of British India;

Commencement. And it shall come into force on the first day of March, 1871.

2. The enactments mentioned in the first schedule hereto annexed are repealed.

References to any of the said enactments made in any Act passed subsequently thereto shall be read as if made to the corresponding section of this Act.

Notifications published and orders made under any section of any Act hereby repealed shall be deemed to have been published and made under the corresponding section of this Act.

Definitions.

3. The following words and expressions in this Act have the meanings hereby assigned to them, unless there be something repugnant in the subject or context:—

"Special law." 4. The words "special law" denote a law applicable to a particular subject.

"Local law." 5. The words "local law" denote a law applicable only to a particular part of British India.

6. The words "enquired into" comprise every proceeding preliminary to trial; and the word "determined" comprises trial and every subsequent proceeding, including the punishment of the offender.

7. The word "written" includes "printed," "lithographed," and "engraved."

8. The words "Criminal Court" denote every Judge or Magistrate lawfully exercising jurisdiction in criminal cases, whether for the decision of such cases in the first instance, or on appeal, or for commitment to any other Court or officer.

9. The words "Court of Justice" denote a Judge, as defined in the Indian Penal Code, who is empowered by law to act judicially alone, or a body of Judges empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

10. The words "Court of Session," subject to the limitations in section 18, include the Courts of the Assistant Sessions Judges in the Presidency of Bombay.

11. The words "Magistrate of the District" mean the Chief Officer charged with the executive administration of a District in criminal matters by whatever designation such officer is called.

12. The word "Magistrate" includes all persons exercising all or any of the powers of a Magistrate.

13. The words "the powers of a Magistrate" mean the full powers of a Magistrate.

The words "any of the powers of a Magistrate" denote powers less than the full powers of a Magistrate.

14. The local jurisdiction of the Magistrate of a District shall, for the purposes of this Act, be deemed a "District," and the local jurisdiction in a particular part of a District, vested in a Magistrate other than the Magistrate of the District, shall be deemed a "division of a District."

15. The words "local limits of a High Court" mean local limits of the ordinary original criminal jurisdiction of a High Court.

16. This Act is divided into eleven Parts relating to the following subject-matters:—

The first Part—to jurisdiction.

The second Part—to proceedings to compel appearance.

The third Part—to inquiry and trial.

The fourth Part—to appeal, reference and revision.

The fifth Part—to execution.

The sixth Part—to evidence.

The seventh Part—to procedure incidental to inquiry and trial.

The eighth Part—to exceptional incidents.

The ninth Part—to pleading.

The tenth Part—to the preventive jurisdiction of Magistrates.

The eleventh Part—to miscellaneous provisions.

PART I.

JURISDICTION.

CHAPTER I.—Ordinary Jurisdiction of the Courts.

17. The Criminal Courts of the several grades, according to the powers vested in them respectively by this Act, shall have jurisdiction in respect of offences punishable under the Indian Penal Code, or under any special or local law for the time being in force (except offences which are by any such law made punishable by some other authority therein specially mentioned), and shall be guided by the provisions of this Act in the inquiry into and determination of the offences hereby declared to be within their jurisdiction.

Justices of the Peace not being Magistrates shall also be guided by the provisions of this Act.

18. The offences mentioned in the second schedule hereto annexed shall, subject to the provision contained in the third explanatory note prefixed to the said schedule, be triable by the Courts specified in column seven of the said schedule.

By what Courts offences in second schedule are triable.

19. The Court of Session may pass the following sentences:—
Powers of Court of Session.

Death (subject to confirmation by the High Court);
transportation;

imprisonment of either description for a period not exceeding fourteen years, including such solitary confinement as is authorized by law;

or fine to an unlimited amount;

or both transportation and fine;

or imprisonment and fine, in cases in which both punishments are authorized by the Indian Penal Code.

In cases in which, according to the Indian Penal Code, forfeiture of property may be adjudged, the Court of Session may adjudge such forfeiture in addition to the sentence.

20. In the Presidency of Bombay a Sessions Judge may delegate cases for trial by an Assistant Sessions Judge: and the Assistant Sessions Judge may, in such cases, pass sentences within the following limits:—

Imprisonment for a term not exceeding seven years (including such solitary confinement as is authorized by law), or fine, or both.

If the sentence be one of imprisonment for a term exceeding three years, it shall be passed subject to confirmation by the Sessions Judge.

The Sessions Judge may review and hear appeals against the proceedings of his Assistants, and may confirm and amend (but not so as to enhance or reduce), or may reverse their sentences or orders.

An Assistant Sessions Judge shall not review or hear an appeal against the proceedings of a Magistrate.

21. In the Presidency of Bombay, the Local Government may, with the previous consent of the Governor General in Council, appoint in any District a Joint Sessions Judge, who shall be invested with co-extensive powers and a concurrent jurisdiction with the Court of Session, except that he shall not receive original complaints, but shall transact such criminal business only as he receives from the Sessions Judge of the District.

The Rules and Regulations for the time being in force for the guidance of the Sessions Judge shall apply to the Joint Sessions Judge, and the seal of the Joint Sessions Judge shall be the same as is used by the Sessions Judge of the District.

22. The Magistrate of the District or other officer authorized to exercise the powers of a Magistrate may pass the following sentences:—
Powers of Magistrate of the District.

Imprisonment not exceeding the term of two years, including such solitary confinement as is authorized by law;

or fine to the extent of one thousand rupees;

or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

Subordinate Magistrates or officers authorized to exercise any of the powers of a Magistrate may pass the following sentences:—

First Class. Imprisonment not exceeding six months; or fine not exceeding two hundred rupees;

or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

Second Class. Imprisonment not exceeding one month; or fine not exceeding fifty rupees;

or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

No sentence of solitary confinement, under section 73 of the Indian Penal Code, shall be passed by any Court inferior to an officer exercising the powers of a Magistrate.

23. Except as otherwise provided in this Act or by any other law for the time being in force, all Magistrates and Subordinate Magistrates shall be subordinate to the Magistrate of the District in which they exercise jurisdiction.

24. The Magistrate of the District, or a Magistrate in charge of a division of a District, may respectively withdraw any criminal case from any Court subordinate to him, and may enquire into or try the case himself, or refer it for enquiry or trial to any other such Court competent to enquire into or try the same.

25. In the Lower Provinces and in the North-Western Provinces of the Presidency of Fort William in Bengal, any Magistrate in charge of a Division of a District may receive and try (without reference by the Magistrate of the District) all or any of such charges as he is now competent to try upon reference by the Magistrate of the District.

CHAPTER II.—Special Jurisdiction conferred by Government.

26. In any part of the territories not subject to the general Regulations of Bengal, Madras or Bombay, the Governor General in Council or the Local Government of such territory may invest the chief officer charged with the executive administration of a district in criminal matters, by whatever designation such officer is called, with power to try all offences not punishable with death, and under the provisions of this Act to pass sentence of imprisonment for a term not exceeding seven years, including such solitary confinement as is authorized by law, or fine or both.

27. Such chief officer shall try as a Court of Session offences which, under the second schedule hereto annexed, are triable by a Court of Session only, and in such trials shall be guided by

the provisions hereinafter contained relating to trials before Courts of Session.

28. The Local Government may invest any person with the powers of a Magistrate or of a Subordinate Magistrate of the first or second class, as described in section 22, with a view to the exercise by such person, within such local limits as the Local Government shall from time to time prescribe, of such powers under this Act or under any special or local law.

29. With the sanction of the Governor General in Council, the Local Government may delegate, with such limitations as it thinks proper, to any officer under its control, the power conferred upon it by section 28.

30. The Local Government may, by notification in the official Gazette prescribe the local jurisdiction of a Magistrate of the District as defined by section 11, and may by such notification from time to time alter such jurisdiction.

31. The Local Government may invest any Magistrate with the local jurisdiction in a particular part of a District declared by section 14 to be deemed a Division of a District, and may from time to time alter the limits of such local jurisdiction.

32. The Local Government may, with such limitations as it thinks proper, invest any Magistrate in charge of a Division of a District or any officer exercising the full powers of a Magistrate, with the authority conferred on the Magistrate of the District by sections 24, 94, 368, 458, 466 and 471.

33. The Local Government may empower any Subordinate Magistrate of the first or second class not invested with such power by any law for the time being in force, to hold the preliminary enquiry into cases triable by the Court of Session, or by any High Court, and may empower him to commit, or hold to bail, persons to take their trial before such Court of Session or High Court, and to exercise all the powers necessary for such purpose.

34. The Local Government may, by notification in the official Gazette, define what Magistrates or Subordinate Magistrates shall entertain cases either on complaint preferred directly to themselves or on the report of a Police officer; and such Magistrates or Subordinate Magistrates shall be competent to entertain such cases, if the offence charged is triable by them or if they shall have been empowered under section 33.

35. The Magistrate of the District may, subject to the orders of the Local Government, empower any Magistrate or Subordinate Magistrate in his District to entertain cases

either on complaint preferred directly to themselves or on the report of a Police officer.

36. The Local Government may vary or cancel any powers with which any person may have been invested under this Act or any enactment hereby repealed.

37. When, in consequence of the office of the Magistrate of a District becoming vacant, any officer succeeds temporarily to the chief executive administration of the District in criminal matters, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties of the Magistrate of the District.

38. Whenever any person holding an office in the service of Government, who has been invested with any powers under this Act or any enactment hereby repealed in any District, is transferred to an equal or higher office of the same nature within another District, he shall, unless the Local Government otherwise directs, continue to exercise the same powers in the District to which he is so transferred.

39. When two or more persons authorized to exercise all or any of the powers of a Magistrate sit together for the despatch of business in any place, any summons, warrant or process or other proceeding, and any order, judgment, finding or sentence, signed by any two or more of them, shall be as valid to all intents and purposes as if it were solely signed, when the powers of one or more of them are higher than the powers of the others or other of them, by such one of them as has, or by one of such of them as have, been invested under section 28 with the highest of such powers, or, when their powers are equal, by any one of them.

40. All sentences heretofore passed by any Magistrates sitting together as aforesaid, shall be deemed to be as valid as if this Act had then been passed.

CHAPTER III.—Jurisdiction as to Persons.

41. The Criminal Courts shall have jurisdiction over all persons, except such persons as, by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras and Bombay, respectively, or by this Act or any other Act of the Governor General of India in Council, are, or shall be, exempted from their jurisdiction.

42. No person shall, by reason of place of birth, or by reason of descent, be exempt from the rules of criminal procedure contained in this Act:

Provided that nothing in this section shall be held to authorize the trial or commitment for trial before any Criminal Court of any person who, in respect of the offence with which he is charged, is not subject to the jurisdiction of that Court.

43. The Magistrate of the District, or any other officer exercising the powers of a Magistrate, may hold the preliminary enquiry into any cases triable by a High Court and may commit or hold to bail persons to, take their trial before such Court, and may exercise all the powers necessary for such purpose.

44. Any Justice of the Peace may, and no other person shall, commit, or hold to bail, any European British subject to take his trial before a High Court.

45. When a European British subject is charged with an offence triable by a High Court, any Magistrate, or any subordinate Magistrate if he is empowered under section 33, but not otherwise, may hear the complaint against such person, and may issue a warrant of arrest, or hold to bail such person, with a view to the complaint being investigated by a Justice of the Peace.

46. When a European British subject has been arrested under a warrant issued under section 45 by a Magistrate not being a Justice of the Peace, if such Magistrate considers that there is sufficient ground for proceeding, he shall forthwith forward the person arrested to a Justice of the Peace, or, if the offence with which such person is charged is bailable and if sufficient bail be tendered, shall admit him to bail for his appearance before a Justice of the Peace.

When the person accused is brought or appears before a Justice of the Peace under this section, such Justice of the Peace shall himself hold the preliminary enquiry into the case, before he commits, or holds to bail, such person for trial before the High Court.

47. Every person exercising the full powers of a Magistrate, and being also a Justice of the Peace, shall have power to enquire into and determine in a summary way complaints of offences committed by a European British subject outside the local limits of the ordinary original criminal jurisdiction of the High Courts, and on which a summons ordinarily issues in the first instance, and, in case of conviction, to inflict on the offender a fine not exceeding five hundred rupees, and, in default of payment, imprisonment for a term not exceeding two months, in some place of confinement within the District, which, in the opinion of the Magistrate, is fit for receiving such offender, or, if there be no such place, then in the Presidency gaol.

48. All European and other subjects of Her Majesty, and all persons who within a year before or after the commission of the offence with which they are charged have dwelt for six months within British India,

who are apprehended within British India or delivered into the custody of a Magistrate within British India wherever apprehended,

shall be amenable to the law for all offences committed by them within the territory of any Foreign Prince or State included within or adjacent

to any part of British India, and may be bailed or committed for trial as hereinafter provided, on the like evidence as would warrant their being held to bail or committed for the same offence if it had been committed within British India.

49. The committing Magistrate, immediately before the trial, shall report every such case to the Local Government, and shall obey the orders which he receives thereon.

50. The Local Government may order the trial to be had before one of the established Courts of Criminal Judicature, which would be competent to try the person charged for the offence, if it had been committed within British India.

51. When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by officers acting under the authority of Her Majesty, in which territory a Court competent to try the person charged for the offence is established by authority of the Governor General of India in Council, the Local Government may order such person to be conveyed in custody, out of British India, for the purpose of delivering him up for trial before such Court.

52. When the person charged is committed, the form of the warrant shall specify the commitment to be until the orders of the Local Government can be received and acted on;

when he is bailed, the form of the bail-bond shall be, in the first instance, to appear before the Magistrate on a certain day assigned, allowing reasonable time for receipt of the orders of the Local Government, and on such subsequent days as the Magistrate from time to time requires;

and if the Local Government shall order the person charged to be tried within the Presidency, the Magistrate may cause the bail-bond to be renewed in the usual form, to appear and take his trial at the Court appointed for the purpose.

53. In either case, the special order of the Local Government shall be deemed full authority, either for the trial and punishment of the person charged within British India, or for conveying him in custody out of British India as aforesaid.

54. The authority given to the Local Government by sections 48 to 53 (inclusive) may be also exercised by any Commissioner or other person acting in the Civil Service of Her Majesty, to whom the Governor General in Council delegates authority to receive reports and give orders in cases within section 48.

CHAPTER IV.—Where Offences shall be tried.

55. Except where otherwise expressly provided by this Act, every offence shall be enquired into and determined in the District in which the offence was committed:

Trial to be ordinarily in district where offence committed.

Provided that nothing in this section shall exempt European British subjects from being tried and convicted before the High Courts for offences committed beyond the local limits of such Courts.

56. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be enquired into or determined in any District in which any such thing has been done or any such consequence has ensued.

57. The abetment of an offence, wherever such abetment has taken place, may be enquired into or determined in any District in which the offence abetted may be enquired into or determined by any Court having jurisdiction to try such offence, as if the abetment had been committed at the same place at which the offence abetted was wholly or partly committed;

or the abetment may be enquired into or determined in any District within which the abettor has done anything for abetting the commission of such offence.

58. When any offence is committed on the boundary or boundaries of two or more Districts, whether subject to the same Local Government or not,

or is begun in one District and completed in another, whether such Districts be subject to the same Local Government or not, such offence may be enquired into or determined in any of such Districts, in the same manner as if it had been actually and wholly committed therein.

59. When any offence is committed on any person, or on, or in respect of, any property in or upon any coach, cart, or other carriage or conveyance, or upon any beast of burden employed in any journey,

or is committed on any person, or on, or in respect of, any property on board any vessel employed on any voyage or journey upon any navigable river, canal, or inland navigation,

such offence may be enquired into or determined in any District through any part whereof such coach, cart, carriage, conveyance, beast of burden, or vessel, has passed in the course of the journey or voyage during which such offence has been committed, in the same manner as if the offence had been actually and wholly committed in such District;

and in all cases where the side, middle or other part of any highway, or the side, bank, middle or other part of any such river, canal, or navigation, constitutes the boundary of any two Districts, such offence may be enquired into or determined in either of such Districts, through or adjoining to, or by the boundary of, any part whereof such coach, cart, carriage, conveyance, beast of burden or vessel, has passed in the course of the journey or voyage during which such offence has been committed, in the same manner as if it had actually and wholly been committed in such District.

60. If any person is charged with any offence punishable under section 411, 412 or 414 of the Indian Penal Code, under the head "Of the receiving of stolen property," such offence may be enquired into or determined in any District in which such person has, or has had, such stolen property in his possession, or in any District in which the offence by which such property came to be stolen property within the meaning of the said Code, may be enquired into or determined.

61. If any person be charged under section 368 of the Indian Penal Code, with the offence of wrongfully concealing or keeping in confinement a person who has been kidnapped or abducted, such offence may be enquired into or determined in any District in which the concealment or confinement has taken place, or in any District in which the kidnapping or abduction may be enquired into or determined.

62. Whenever any person is charged with being a thug,

Thuggee, dacoity.

or with murder as a thug,

or with dacoity with or without murder,

or with having belonged to a gang of dacoits,

or with having belonged to any wandering or other gang of thieves associated for the purpose of habitually committing theft or robbery and not being a gang of thugs or dacoits,

the offence may be enquired into in any District in which the accused person happens to be when charged or arrested, by any Magistrate competent to commit to a Court of Session,

and the accused person may be committed to the Court of Session to which such Magistrate is subordinate.

63. If any person escapes from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice, or by virtue of a commutation of such sentence,

or is charged with any offence punishable under section 227 of the Indian Penal Code, or under section 12 of Act No. XXIV of 1855 (*relating to Penal Servitude*),

the offence may be enquired into or determined, either in the District in which such person is apprehended and re-taken, or in the District in which he was formerly tried, or, in the case of an escape from custody, in the District in which he has escaped from custody.

64. Whenever any doubt arises as to the District in which any offence should be enquired into or determined, the High Court within whose jurisdiction the offender is apprehended may decide in which District the offence shall be determined.

65. The High Court may order the transfer of any particular criminal case or appeal from a Criminal Court subordinate to its authority, to any other such Criminal Court of equal or superior jurisdiction, or may order that any offence shall be enquired into or determined in any District or division of

a District, other than that in which the offence has been committed,

whenever it appears to such High Court that such order will promote the ends of justice, or tend to the general convenience of the parties or witnesses.

PART II.

PROCEEDINGS TO COMPEL APPEARANCE.

CHAPTER I.—*Preliminary Enquiry by Police.*

66. Any Magistrate may, upon the report of a Police officer or otherwise, direct enquiry to be made by a Police officer into any offence punishable under the Indian Penal Code or under any special or local law.

Magistrate may direct enquiry.

67. Any Police officer may, without an order from a Magistrate, enquire into and take cognizance of the offences described in column three of the second schedule annexed to this Act as offences for which a Police officer may arrest without warrant, but he shall not, without such order, enquire into or take cognizance of any other offences except as hereinafter provided.

Police to make enquiry into certain offences only when ordered by Magistrate.

68. Nothing in section 67 shall be held to interfere with the exercise of any powers vested in a Police officer by any special or local law, or with the performance of any duty which is imposed upon a Police officer by any such special or local law.

Saving of powers vested in Police by special or local law.

69. Every person aware of the commission of any offence made punishable under sections 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 or 460 of the Indian Penal Code, shall give information of the same to the nearest Police officer, whenever such person has reason to believe that, if such information be withheld, the offender may not be brought to justice, or may have his escape facilitated.

70. Every complaint or information preferred to an officer in charge of a Police station shall be reduced into writing, and the substance thereof shall be entered in a diary to be kept by him in the form prescribed by the Local Government.

Complaint to Police to be in writing.

71. Upon complaint or information being preferred to an officer in charge of a Police station of the commission, within the limits of such station, of any of the offences specified in column three of the second schedule hereto annexed as offences for which Police officers may arrest without warrant, he shall send immediate intimation to the Magistrate of the District or the Magistrate in charge of a division of the District, and shall proceed in person or shall depute one of his subordinate officers to proceed to the spot to enquire into the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and apprehension of the offender.

Upon complaint preferred, Police officer in charge to proceed in person or depute officer to make enquiry.

Any Magistrate, on receiving intimation of the commission of any such offence, may at once proceed, or depute an officer exercising any of the powers of a Magistrate to proceed, to hold a preliminary enquiry into or otherwise to dispose of such case in the manner provided in this Act.

72. Provided that, when any complaint is made against any person by name and the case is not of a serious nature, the officer in charge of a Police-station need not proceed in person or depute a subordinate officer to make an enquiry on the spot, unless such local enquiry appears to be necessary.

Where local enquiry dispensed with.

73. Provided also that, if it appear to the officer in charge of a Police-station that there is no sufficient ground for entering on an enquiry, or that the immediate apprehension of the accused is not necessary for the ends of justice, he shall not proceed in the case, but shall report the substance of the complaint or information for the orders of the Magistrate having jurisdiction.

Where Police officer in charge sees no sufficient ground for enquiry.

74. An officer in charge of a Police-station may, by an order in writing, require the attendance before himself of any person being within the limits of his station, who, from the statement of the complainant or otherwise, appears to be acquainted with the facts and circumstances of any case into which he is enquiring under section 71, and such person shall obey such requisition.

Police officer's power to summon witnesses.

75. An officer in charge of a Police-station or other Police officer making an enquiry may examine orally any person supposed to be acquainted with the facts and circumstances of the case, and may reduce into writing any statement made by the person so examined.

No statement so reduced into writing shall be signed by the person making it, nor shall it be treated as part of the record nor used as evidence.

Proviso.

76. No Police officer or other person shall offer any inducement to an accused person by threat or promise or otherwise to make any disclosure or confession.

No inducement to be offered to confess.

77. No Police officer shall record any statement or any admission or confession of guilt, which may be made before him by a person accused of any offence:

Police not to record statement or confession.

Provided that nothing in this section shall preclude a Police officer from reducing any such statement or admission or confession into writing for his own information or guidance.

Proviso.

78. No confession or admission of guilt made to a Police officer, shall be used as evidence against a person accused of any offence.

Confession to Police not to be used as evidence.

79. No confession or admission of guilt made by any person whilst he is in the custody of a Police officer, shall be used as evidence against such

Confession made while accused is in custody not to be used as evidence.

person, unless it be made in the immediate presence of a Magistrate.

80. Provided that, when any fact is deposed to in evidence as discovered in consequence of information received from a person accused of any offence, or in the custody of a Police officer, so much of such information, whether it amounts to a confession or admission of guilt or not, as relates distinctly to the fact thereby discovered may be received in evidence.

81. If the person arrested appears from the information obtained to have committed the offence charged, and the offence is not bailable, the officer in charge of the Police-station shall forward him under custody to the Magistrate having jurisdiction in respect of the offence, and shall bind over the prosecutor and witnesses to appear on a fixed day, before such Magistrate.

When any subordinate Police officer has made any enquiry under this chapter, he shall, if so required by the officer in charge of the Police-station, submit a report of such enquiry to him, or he may do so without such requisition, and the officer in charge of the Police-station shall then proceed as if he had made the enquiry himself.

82. No Police officer shall, without the special order of a Magistrate, detain an accused person in custody for a longer period than, under all the circumstances of the case, is reasonable; and such period shall in no case exceed twenty-four hours.

If the enquiry has not been completed within twenty-four hours, and if there are grounds for believing that the accusation is well founded, the officer in charge of the Police-station shall forward the accused person to the Magistrate, with a short despatch stating the offence for which he has been arrested.

83. If it appears to the officer in charge of the Police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the transmission of the accused person to the Magistrate, such officer shall release the accused person on bail, or on his own recognizance, to appear when required, and shall submit a report of the case for the orders of the Magistrate.

84. A Police officer making an enquiry under this chapter, shall day by day enter his proceedings in a diary, setting forth the time at which the complaint or other information reached him, the time at which he began and closed his enquiry, the place or places visited by him, and a statement of the circumstances elicited by his enquiry.

He shall forward day by day a copy of such diary to the District Superintendent of Police, who shall without delay bring to the notice of the Magistrate of the District any part of such diary which he considers it to be important that such Magistrate shall know.

The Magistrate of the District may call for and inspect such diary.

In cases where there is no District Superintendent of Police, the Police officer shall forward

day by day a copy of the diary to the Magistrate of the District.

Such diary shall not be evidence of the facts stated therein, except against the Police officer who made it.

85. The enquiry shall be completed without unnecessary delay, and, as soon as it is completed, the Police officer making the same shall forward to the Magistrate a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the complaint, and the names of the witnesses, without any expression of opinion as to the guilt of the accused person, and shall also send to the Magistrate any weapon or article which it may be necessary to produce before him.

The Police officer shall state whether the accused person has been forwarded in custody, or has been released on bail or on his own recognizance.

If the accused person be detained in custody, the Police officer shall state the fact and the cause of his detention.

86. A person accused of any offence entered as not bailable in column five of the second schedule hereto annexed, shall not be admitted to bail, if there appear reasonable ground for believing that he has been guilty of the offence imputed to him.

But a person accused of any offence entered as bailable shall be admitted to bail, if sufficient bail be tendered for appearance before the Magistrate having jurisdiction in respect of the offence.

87. The bail to be taken under section 86 shall not be excessive; and the surety or sureties shall bind himself or themselves under a specific penalty to produce the accused person before the Magistrate on or before a fixed day, to answer the complaint.

88. Every prosecutor and witness whose attendance before the Magistrate is deemed necessary by the Police officer making the enquiry, shall execute a recognizance in the Form (E) given in the appendix hereto, or to the like effect, for appearance before the Magistrate having jurisdiction in respect of the offence on a fixed day.

Such day shall be the day whereon the accused person is to appear, if he has been admitted to bail, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

The officer in whose presence the recognizance is executed shall, after delivering to the prosecutor or one of the witnesses a duplicate thereof, send it with his report to the Magistrate.

No Police officer shall accompany the prosecutor or witnesses on his or their way to the Court of the Magistrate.

89. A Police officer shall not subject any prosecutor or witness to restraint or unnecessary inconvenience, nor require him to give any other security for his appearance than his own recognizance.

But if any prosecutor or witness refuses to attend, or to execute the recognizance directed in section 88, the officer in charge of a Police-station may forward him under custody to the Magistrate, who may detain him in custody until he executes such recognizance, or until the hearing before the Magistrate.

90. Officers in charge of Police-stations shall report to the Magistrate of the District the cases of all persons apprehended within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

No person who has been apprehended shall be discharged, except on bail or on his own recognizance, or under the special order of a Magistrate.

91. The officer in charge of a Police-station, on receiving notice or information of the unnatural or sudden death of any person, shall immediately give intimation thereof to the nearest Magistrate, and proceed to the place where the body of such deceased person is, and there in the presence of two or more respectable inhabitants of the neighbourhood, shall make enquiry, and report the apparent cause of death, describing any mark of violence which may be found on the body, and stating in what manner or by what weapon or instrument such mark appears to have been inflicted.

The report shall be signed by such Police officer and other persons or by so many of them as concur therein, and shall be forthwith forwarded to the Magistrate.

When there is any doubt regarding the cause of death, the Police officer shall forward the body, with a view to its being examined, to the nearest Civil Surgeon or other medical officer appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of putrefaction on the road.

In the Presidencies of Madras and Bombay, the Head of the village shall make the enquiry and report as aforesaid.

92. The powers to be exercised by an officer in charge of a Police-station under this chapter shall be exercised, in the event of his absence or illness, by the Police officer next in rank present at the Police-station, above the rank of a constable.

CHAPTER II.—Of Complaint in order to the issue of a Summons or Warrant.

Summons or warrant obtained on complaint.

93. A summons or warrant of arrest may be obtained on a complaint.

94. When, in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made before the Magistrate of the District or a Magistrate authorized to receive such complaint without reference from the Magistrate of the District, such Magistrate shall examine the complainant.

The examination shall be reduced into writing and signed by the complainant, and also by the Magistrate.

95. The Magistrate before whom such complaint is duly made shall, if it appear to him that there is sufficient ground for proceeding, issue his summons, or, in cases in which a warrant may issue, his warrant, for causing the person accused to appear before himself or some other Magistrate having jurisdiction.

If in the judgment of the Magistrate before whom the complaint is made there be no sufficient ground for proceeding, he shall dismiss the complaint.

96. Except as is otherwise provided in Part X of this Act, the Magistrate of the District, or a Magistrate in charge of a division of a District, may, without any complaint, take cognizance of any offence which may come to his knowledge and may issue a summons, or, in cases where a warrant may issue, a warrant of arrest, against the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person.

The provisions of this section shall not apply to the offences described in chapters XIX, XX and XXI of the Indian Penal Code.

97. When a complaint is made before a Magistrate having jurisdiction in the case that any person has committed or is suspected of having committed any offence triable by such Magistrate and punishable with fine only or with imprisonment for a period not exceeding six months, the Magistrate may issue his summons directed to such person requiring him to appear at a certain time and place before such Magistrate to answer to the complaint.

If the Magistrate believes that the accused person is about to abscond, he may, instead of issuing a summons, issue a warrant in the first instance for the arrest of such person.

98. If the person served with a summons does not appear before the Magistrate at the time mentioned in such summons, and the Magistrate is satisfied that such summons was duly served in what the Magistrate deems a reasonable time before the time therein appointed for appearing to the same,

or if it appears to the Magistrate that, after due diligence, the summons could not be served according to the provisions of this Act,

the Magistrate may issue his warrant to apprehend the accused person.

99. When a complaint is made before a Magistrate having jurisdiction in the case that any person has committed or is suspected of having committed any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months,

or when a complaint is made before any Magistrate or Subordinate Magistrate or other officer empowered to commit persons for trial before the Court of Session that any person has committed

or is suspected of having committed any offence triable exclusively by the Court of Session or which in the opinion of such Magistrate or officer ought to be tried by the Court of Session,

such Magistrate may issue his warrant to arrest such person, or, if he thinks fit, his summons requiring him to appear to answer such complaint.

100. If the Magistrate sees cause to distrust the truth of the complaint, he may postpone the issuing of process for causing the attendance of the person complained against, and direct a previous enquiry to be made into the truth of the complaint, either by means of any officer subordinate to such Magistrate, or of a local Police officer, or in such other mode as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

If such enquiry is made by means of some person other than an officer exercising any of the powers of a Magistrate or a Police officer, such person shall exercise all the powers conferred by this Act on an officer in charge of a Police-station, except that he shall have no power to make an arrest.

Nothing contained in this section shall prevent the Magistrate from at once dismissing the complaint, if in his judgment there be no sufficient ground for proceeding with it.

101. It shall be in the discretion of the Magistrate, in issuing his warrant for the arrest of any person against whom a complaint has been made, to direct by endorsement on the warrant that, if he be willing and ready to give bail in a sum to be fixed by the Magistrate for his appearance before the Magistrate to be named in the warrant on a specified day to answer the complaint, the officer to whom the warrant is directed shall accept such bail, and shall release from custody the person complained against.

In the event of bail being given, the officer shall forward the bail-bond to the Magistrate.

102. Whether a warrant or a summons be issued, the Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the accused person and permit him to appear by an agent duly authorized to act in his behalf.

But it shall be in the discretion of the Magistrate at any stage of the proceedings to direct the personal attendance of the accused person.

103. If any person accused of an offence absconds or conceals himself, so that, upon a warrant issued against him, he cannot be found, the Magistrate shall, if satisfied that he absconds or conceals himself for the purpose of avoiding the service of the warrant, issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days.

The proclamation shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides, and shall be affixed on some conspicuous part of his ordinary

place of abode, or on some conspicuous place of such town or village.

A copy of the proclamation shall also be affixed on some conspicuous part of the Magistrate's Court-house.

104. The Magistrate may, at the same time, order the attachment of any moveable or immovable property belonging to the person absconding or concealing himself.

Such order shall not authorize the attachment of any property out of the jurisdiction of the Magistrate by whom it is made, but it shall authorize the attachment of property in the jurisdiction of any Magistrate by whom the order is endorsed.

The attachment under this section shall, if the property ordered to be attached be land paying revenue to Government, be made through the Collector of the District in which the land is situate, and, in all other cases, by seizure under the order of the Magistrate or by the appointment of a manager and receiver, or by an order prohibiting the payment of rent to the absent person, as the Magistrate deems proper.

If the absent person does not appear within the time specified in the proclamation, the property under attachment shall be declared to be at the disposal of Government, but shall not be sold until the expiration of six months, unless it is of a perishable nature, or the Magistrate considers that the sale would be for the benefit of the owner.

105. When any person whose property has been declared to be at the disposal of Government under section 104, appears or is found within two years after the attachment of the property, and proves to the satisfaction of the Court trying him for the offence of which he was accused, or, if not tried or committed for trial for that offence, to the satisfaction of the Magistrate of the District, that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the proceeds thereof, shall be restored to him.

CHAPTER III.—Of the Summons.

106. Every summons issued by a Magistrate to an accused person shall be in writing and shall be signed and sealed by such Magistrate, and shall be in the Form (A) given in the appendix to this Act, or to the like effect.

107. A summons shall ordinarily be issued by whom through a Police officer; served. but the Magistrate issuing the summons may, if he see fit, direct it to be served by any other person.

108. The summons shall be served on the accused personally, by exhibiting the original and delivering or tendering a copy to him, or, in case the accused person cannot be found, the copy may be left for him with some adult male member of his family residing with him.

109. When the accused person cannot be found, and there is no adult male member of his family on whom the service can be made, the serving officer shall fix a copy of the

summons on some conspicuous part of the house in which the accused person ordinarily resides.

110. A Magistrate may (notwithstanding such summons), either before the appearance of the accused person as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person.

111. The Magistrate of the District or a Magistrate in charge of a division of a District, may issue a summons or warrant for the apprehension of any person within such District or division of a District in respect of any offence known or suspected to have been committed by such person in a different District or division of a District, or on the high seas, or in a foreign country, and for which, if committed within the jurisdiction of such Magistrate, he might issue a summons or warrant.

112. The provisions relating to a summons and its service and issue contained in this chapter, shall be applicable to every summons issued under this Act, except summonses to serve as a juror or assessor:

Provided that, when the person summoned is in the service of Government or of any Railway Company, the Court or Magistrate issuing the summons may send the summons to the head of the office in which the person summoned is employed, and such head shall thereupon cause the summons to be served on the person named therein.

CHAPTER IV.—Of the Warrant.

113. Every warrant issued by a Magistrate shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the Form (B) given in the appendix to this Act, or to the like effect.

114. A warrant shall ordinarily be directed to a Police officer, but the Magistrate issuing a warrant may, if he see fit, direct it to any other person.

115. When a warrant is directed to a person other than a Police officer, any other person may aid in executing such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

116. A warrant may be directed to several persons, and when so directed, may be executed by all, or by any one or more of such persons.

117. A warrant, directed to a Police officer may also be executed by any other Police officer whose name is endorsed upon the warrant by the officer to whom the warrant is directed.

118. The Magistrate by whom a warrant of arrest is issued, may attend personally for the purpose of seeing that the warrant is duly executed.

The Magistrate may also at any time direct the arrest in his presence of any person for whose arrest he is competent to issue a warrant.

119. Every person is bound to assist a Magistrate or Police officer demanding his aid in the prevention of a breach of the peace,

or in the suppression of a riot or an affray, or in the taking of any other person whom such Magistrate or Police officer is authorized to arrest.

120. A warrant issued by a Magistrate shall ordinarily be executed (unless it be specially otherwise provided) within the jurisdiction of the Magistrate of the District in which it was issued.

121. When any person against whom a warrant is issued by a Magistrate escapes, goes into, or is in, any place out of the jurisdiction of the Magistrate issuing such warrant, the warrant may be executed in such place.

If the person against whom the warrant is issued is arrested in such place, the Police officer or other person executing the warrant shall (subject to the provisions of section 122) take him before the Magistrate of the District, or some other Magistrate within whose jurisdiction the arrest was made.

If the offence with which the person arrested is charged be bailable, and he is willing and ready to give bail for his appearance before the Magistrate by whom the warrant was issued, the Magistrate before whom he is brought shall take bail of him for his appearance accordingly, and shall release him from custody, and forward the recognizance or other bail-bond to the Magistrate by whom the warrant was issued.

If the offence be not bailable, or if the person arrested be unable to find bail, he shall be forwarded to the Magistrate by whom the warrant was issued.

If the arrest be made within the local limits of a High Court, the person accused, when arrested, shall be taken before the Chief Commissioner of Police or a Police Magistrate.

Such Chief Commissioner or Police Magistrate shall forward the person arrested to the Magistrate by whom the warrant was issued, or, if the offence with which the person arrested is charged be bailable, shall admit him to bail, and shall forward the recognizance or other bail-bond to such Magistrate.

122. If the place of arrest under section 121 be within twenty miles from the place at which the warrant was issued, the person arrested may be taken, in the first instance, before the Magistrate who issued the warrant.

123. A Magistrate issuing a warrant for the arrest of a person out of his jurisdiction, may direct the warrant to any Magistrate within whose jurisdiction

such person is, or is supposed to be, and may send the same by post.

On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name thereon, and enforce its execution in the same manner as if the warrant had been originally issued by himself.

If the person named in the warrant be apprehended, he shall be carried before the Magistrate who endorsed it, and shall be dealt with by such Magistrate as provided in section 121.

124. A warrant issued under section 121 for execution within the local limits of a High Court, shall be directed to the Chief Commissioner of Police or to a Police Magistrate, who shall proceed in the manner provided in section 121.

125. On the arrest of a person for whose apprehension a warrant has been issued under the provisions of section 111, in respect of an offence known or suspected to have been committed in another District or division of a District, the Magistrate who issued the warrant shall, unless he is authorized to complete the enquiry himself, send the person arrested to the Magistrate within the limits of whose jurisdiction the offence is known or suspected to have been committed, or take bail for his appearance before such Magistrate, if the offence of which such person is suspected is bailable.

When the Magistrate who issued the warrant cannot satisfy himself as to the Magistrate to whom the person arrested should be sent, the case shall be reported for the orders of the High Court.

126. If the arrest was made under a warrant issued under section 111 by a Magistrate subordinate to the Magistrate of the District, such Magistrate shall send the person arrested to the Magistrate of the District, unless the Magistrate in whose jurisdiction the offence is suspected to have been committed issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the Police officer or other person executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued.

If the offence of which the person arrested is suspected has been committed in the jurisdiction of another Subordinate Court of the same District, the Magistrate who issued the warrant under section 111 shall send the person arrested to the Magistrate in charge of the division in which the offence was committed.

127. A Police officer or other person executing a warrant of arrest, shall notify the substance of the warrant to the person to be arrested, and, if required to do so, shall show the warrant to such person.

128. In making an arrest, the Police officer or other person executing the warrant shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

129. If a person against whom a warrant of arrest is issued forcibly resists the endeavour to arrest him, the Police officer or other person executing the warrant may use all means necessary to effect the arrest.

130. If there is reason to believe that any person against whom a warrant has been issued has entered into, or is within, any house or place, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Police officer or other person executing the warrant, to allow such Police officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

131. The Police officer or other person authorized by warrant to arrest a person, may break open any outer or inner door or window of any house or place, whether that of the person accused or of any other person, in order to execute such warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

132. If information be received that a person accused of any offence for which a warrant may issue is concealed in an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the Police officer or other person employed to execute the warrant shall take such precautions as may be necessary to prevent the escape of the accused person.

If the accused person does not deliver himself up, the Police officer or other person authorized to execute the warrant may notify his authority and purpose, and demand admittance.

If after such notification and demand he cannot otherwise obtain admittance, he shall give notice to any woman as aforesaid in such apartment, not being a person against whom a warrant has been issued, that she is at liberty to withdraw, and afford her every reasonable facility for withdrawing, and may then break open the apartment and execute the warrant.

133. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

134. The officer or other person executing the warrant shall, without unnecessary delay, bring the person arrested before the Magistrate before whom he is required by this Act to produce him.

135. No Police officer or other person shall offer to the person arrested any inducement, by threat or promise or otherwise, to make any disclosure.

But no Police officer or other person shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will.

136. The provisions relating to a warrant and its service and issue contained in this chapter, shall be applicable to every warrant of arrest issued under this Act.

Provisions as to warrant and its service and issue applicable to all warrants of arrest.

CHAPTER V.—Arrest without Warrant.

137. A Police officer may, without orders from a Magistrate and without a warrant, arrest,—

First.—Any person who in the sight of such Police officer shall commit an offence specified in column three of the second schedule hereto annexed as an offence for which Police officers may arrest without a warrant.

Secondly.—Any person against whom a reasonable complaint has been made or a reasonable suspicion exists of his having been concerned in any such offence.

Thirdly.—Any person against whom a hue and cry has been raised of his having been concerned in any such offence.

Fourthly.—Any person who is a proclaimed offender.

Fifthly.—Any person found with stolen property in his possession.

Sixthly.—Any person who obstructs a Police officer while in the execution of his duty, and,

Seventhly.—Any deserter from Her Majesty's Army or Her Majesty's Indian Army.

138. Any person known or suspected to have committed an offence for which a Police officer is not authorized to arrest without a warrant, and who refuses on demand of a Police officer to give his name and residence,

or gives a name or residence which there is reason to believe to be false,

may be detained by such Police officer for the purpose of ascertaining the name or residence of such person and with a view to future proceedings.

139. An officer in charge of a Police-station may, without orders from a Magistrate and without a warrant, arrest or cause to be arrested any person found lurking within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

or any person who is a reputed robber, house-breaker, thief, receiver of stolen property knowing it to be stolen,

or who is of notoriously bad livelihood.

140. Every Police officer shall prevent, and he may interpose for the purpose of preventing, the commission of any offence specified in column three of the second schedule hereto annexed as an offence for which Police officers may arrest without a warrant.

Police to prevent certain offences.

141. Every Police officer receiving information of a design to commit any such offence, shall communicate such information to the Police officer to whom he is subordinate, and to any other officer whom it may concern to prevent or take cognizance of the commission of any such offence.

142. A Police officer knowing of a design to commit any such offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if the commission of the offence cannot be otherwise prevented.

143. A Police officer may, of his own authority, interpose for the prevention of any injury attempted to be committed in his view to any public building, work of art, road, bridge, tank, well, or water-channel,

or to prevent the removal or injury of any public land-mark or buoy, or other mark used for navigation.

144. If there is reason to believe that any person liable to arrest under this chapter without a warrant, of whom a Police officer is in search, has entered into or is within any house or place, it shall be the duty of the person residing in or in charge of such house or place, on the demand of such Police officer, to allow ingress thereto, and all reasonable facilities for a search therein.

145. If ingress to such house or place cannot be obtained under section 144, the Police officer authorized to make the arrest shall take such precautions as may be necessary to prevent the escape of the person to be arrested and send immediate information to a Magistrate.

If no warrant can be obtained without affording such person an opportunity of escape, and there is no person authorized to enter without a warrant on the spot, the Police officer may make an entry into such house or place and search therein.

146. A Police officer making an arrest under this chapter shall, without unnecessary delay, take or send the person arrested before the Magistrate having jurisdiction in the case, or before the officer in charge of a Police-station.

147. When any offence is committed in the presence of a Magistrate, he may order any person to arrest the offender, and may thereupon commit him to custody, or, if the offence is bailable, may admit him to bail.

148. A Magistrate or officer in charge of a Police-station may command an unlawful assembly to disperse, and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

149. If a person lawfully arrested under the provisions of this Act escapes or is rescued, the Police officer or other person from whose custody the person arrested has escaped or has

Information of design to commit such offences.

Ingress to be allowed into house entered by person of whom Police in search.

Procedure where ingress not obtainable.

Person arrested to be taken before Magistrate or officer in charge of Police-station.

Unlawful assembly to disperse on order.

Re-taking of person escaped.

been rescued, may make fresh pursuit, and take him in any place, either within or without the jurisdiction where he was so in custody, and may deal with such person as such Police officer or other person might have done on an original taking.

150. In order to re-take any person, as provided in section 149, the Police officer or other person making such fresh pursuit may adopt the same measures as he might have adopted on the original taking.

151. When any officer in charge of a Police-station requires any officer subordinate to him to make without a warrant an arrest which may lawfully be made by such officer without a warrant, he shall deliver to the Police officer required to make the arrest, an order in writing, specifying the person to be arrested, and the offence for which the arrest is to be made.

The provisions of sections 119 and 127 to 133 (inclusive) shall apply to every order in writing issued under this section.

152. For the purpose of arresting any person accused of any of the offences specified in column three of the second schedule hereto annexed as offences for which Police officers may arrest without a warrant, a Police officer may pursue any such person into the limits of another Police officer, whether subordinate to the same Magistrate as himself, or to the Magistrate of any other District, and whether such place be under the same Local Government or not.

153. Any person attending the Court of the Magistrate, although not upon an arrest or summons on a charge made, may be detained by the Magistrate for the purpose of examination, for any offence which from the evidence he may appear to have committed, and may be proceeded against as though he had been arrested or summoned on a charge made.

PART III.

INQUIRY AND TRIAL.

CHAPTER I.—Preliminary.

154. Every person charged before any Criminal Court with an offence may of right be defended by any barrister or attorney of a High Court, or by any pleader duly qualified under the provisions of Act No. XX of 1865, or any other law in force for the time being relating to pleaders.

Any such person may, with the permission of the Court (but not otherwise), employ any mukhtár or other person not being a barrister, attorney, or pleader, to assist him in his defence.

155. The place in which the Court of a Magistrate is held for the trial of any complaint or for the purpose of conducting any preliminary investigation into any case triable by a Court of Session or

the High Court or any Superior Court, shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them.

But any such Court may, if it think fit, order that, during the investigation into any particular case triable by a Court of Session or by the High Court, no person shall have access to or be or remain in such room or building without the consent or permission of the Court.

CHAPTER II.—Cases usually tried by Magistrates upon Summons.

156. The following procedure shall be observed in cases usually tried by Magistrates upon summons.

157. If upon the day appointed, the accused person appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the Magistrate by virtue of a warrant, it shall be at the discretion of the Magistrate to admit him to bail, or allow him to be at large upon his personal recognizance, as the Magistrate directs.

If the accused person cannot give bail when required to do so, he shall be committed to custody.

158. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint, unless for some reason he thinks proper to adjourn the hearing of the same to some other day, upon such terms as he thinks fit.

159. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted.

If the accused person admit the truth of the complaint, and show no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

160. If the accused person do not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he produces in support of his complaint, and also to hear the accused person and such witnesses as he produces in his defence.

161. Before or during the hearing of any complaint, the Magistrate may adjourn the hearing of the same to a day to be then appointed and stated in the presence and hearing of the party or parties.

If on the day to which such hearing or such further hearing has been so adjourned, the accused person does not appear, the Magistrate may issue his warrant for the arrest of such person.

If the complainant does not appear the Magistrate may dismiss the complaint.

162. Whenever the Magistrate dismisses the complaint as frivolous or vexatious, he may, in his discretion, by his order of dismissal, award that the complainant shall pay to the accused person such compensation, not exceeding fifty rupees, as to such Magistrate seems just and reasonable.

In such cases, if more persons than one are accused, the Magistrate may in like manner award compensation not exceeding fifty rupees to each of them.

The sum so awarded shall be recoverable by distress and sale of the moveable property belonging to the complainant, which may be found within the jurisdiction of the Magistrate of the District, and, in default of such distress, by imprisonment of the complainant in the civil jail, for any time not exceeding thirty days, unless such sum is sooner paid.

163. If a complainant at any time before a final order is passed in any case under this chapter satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw it.

A complaint withdrawn under this section shall not again be entertained.

164. If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record a judgment of acquittal.

If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate, if the sentence be for fine only, may be pronounced in the presence of the agent, if the accused person has been permitted to appear by agent, or the accused person may be required to attend to hear such sentence.

CHAPTER III.—Cases usually tried by Magistrates upon Warrant, and preliminary inquiries before Magistrates in cases triable by the Court of Session.

165. The following procedure shall be observed in cases usually tried before Magistrates upon warrant and in preliminary inquiries before Magistrates in cases triable by the Court of Session.

166. When the person against whom the warrant is issued appears or is brought before the Magistrate, or if his personal attendance is dispensed with, when the Magistrate thinks fit, the Magistrate shall take the evidence of the complainant and of such persons as are stated to have any knowledge of the facts which form the subject matter of the accusation and the attendant circumstances.

167. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or of his agent when his personal

attendance is dispensed with and he appears by agent.

The accused person or his agent shall be permitted to cross-examine the complainant and his witnesses.

168. The Magistrate may at any stage of the proceedings summon and examine any person whose evidence he considers essential to the enquiry.

169. The Magistrate may from time to time, at any stage of the enquiry, examine the accused person, and put such questions to him as he considers necessary.

It shall be in the option of the accused person to answer such questions.

170. If from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to defer the examination, or further examination, of witnesses, the Magistrate may, by a written order, from time to time, adjourn the enquiry, and remand the accused person for such time as is deemed reasonable, not exceeding fifteen days:

Provided that, instead of detaining the accused person in custody during the period for which he is so remanded, the Magistrate may discharge him, upon his entering into a recognizance, with or without a surety or sureties, at the discretion of such Magistrate, conditioned for his appearance before the Magistrate at the time and place appointed for the continuance of such examination.

171. When the evidence of the complainant and of the witnesses for the prosecution, and such examination of the accused person as the Magistrate considers necessary, have been taken, the Magistrate, if he finds that no offence has been proved against the accused person, and that there are not sufficient grounds for committing him to take his trial before the Court of Session, shall discharge him.

172. If the Magistrate finds that an offence is apparently proved against the accused person, which falls within the definition in a certain section of the Indian Penal Code, or within one or other of the definitions in several sections of the said Code, and if the Magistrate is competent to try such offence and thinks he ought to try it, he shall prepare in writing a charge against the accused person.

173. The charge shall then be read to the accused person, and he shall be asked whether he is guilty or has any defence to make.

174. If the accused person have any defence to make to the charge, he shall be called upon to enter upon the same, and to produce his witnesses if in attendance, and shall be allowed to recall and cross-examine the witnesses for the prosecution.

175. If the Magistrate finds the accused person not guilty, he shall record judgment of acquittal.

If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

Conviction.

176. When evidence has been given before a Magistrate which appears to be sufficient for the conviction of the accused person of an offence which is triable exclusively by the Court of Session, or which, in the opinion of the Magistrate, is one that ought to be tried by the Court of Session, the accused person shall be sent for trial by the Magistrate before the Court of Session.

If the Magistrate is a Justice of the Peace and the accused person is a European British subject, the Magistrate shall ask the accused person whether he wishes to be tried by the High Court or the Court of Session,

and if the accused person says that he wishes to be tried by the High Court, he shall be sent for trial accordingly.

But if he says that he wishes to be tried by the Court of Session, the Magistrate shall, in his discretion, send the accused person for trial before the Court of Session or the High Court, as the Magistrate thinks fit.

177. When the Magistrate determines to send the accused person before the Court of Session for trial, he shall make a written instrument under his hand and seal, declaring with what offence the accused person is charged, and shall direct him to be tried by such Court on such charge.

A copy of this instrument shall be forwarded with the record of the preliminary enquiry to the Court of Session before which the accused person is to be tried, and a copy shall also be sent to the public prosecutor or to the officer appointed to conduct the prosecution.

178. As soon as the charge on which the accused person is to be tried has been prepared, it shall be read to him, and a copy or translation thereof shall be furnished to him, if he so require.

179. The accused person shall be required at once to give in, orally or in writing, a list of witnesses whom he may wish to be summoned to give evidence on his trial before the Court of Session or High Court.

It shall be in the discretion of the Magistrate to allow the accused person to give in any further list of witnesses at a subsequent time.

180. When a commitment is made to the Court of Session, the record of the Magistrate shall be forwarded to such Court, together with any weapon or other article of property connected with the case.

When a commitment is made to the High Court, such record and such weapon or other article shall be forwarded to the Clerk of the Crown, and if any part of such record is not in English, a translation thereof in English shall be forwarded therewith.

181. When the preliminary enquiry is concluded, the accused person shall, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions. Such copies shall be made at his expense.

Copies of depositions to be furnished to accused.

182. When the accused person is committed to take his trial before the Court of Session, the Magistrate shall issue an order to the Government Pleader or other officer appointed by the Government to conduct prosecutions before the Court of Session, notifying such commitment, and stating the offence in the same form as the charge.

When commitment made, Magistrate to give notice to Government prosecutor.

Nothing in this section shall preclude the Magistrate, if he thinks fit, from appointing a person other than such Government Pleader or officer to conduct the prosecution.

CHAPTER IV.—*Inquiry by Subordinate Magistrates.*

183. Criminal cases brought before the Magistrate of the District or a Subordinate District Magistrate in charge of a division of a District, either on complaint preferred directly to such Magistrate or on the report of a Police officer, may be referred by such Magistrate to any Magistrate subordinate to him.

Reference of cases to Subordinate District Magistrate.

The reference shall be for enquiry or for trial, if the offence be triable by such Subordinate Magistrate,

or with a view to commitment to the Court of Session if such Magistrate is competent to commit to the Court of Session,

or with a view to commitment to the High Court if such Subordinate Magistrate is competent to commit to the High Court:

Provided that nothing in this section shall prevent any Subordinate Magistrate from entertaining, either on complaint preferred directly to such Magistrate or on the report of a Police officer (in cases in which the Subordinate Magistrate is authorized to receive such report), any case that such Magistrate is, by any law for the time being in force, competent to entertain.

Provido.

184. When a criminal case is referred under this chapter to a Subordinate Magistrate, the order of reference, if the case has been brought forward on the report of a Police officer, shall be recorded on such report, and all processes issued for causing the attendance of the accused person or the witnesses, shall direct them to attend before such Court.

Record of order of reference.

Processes.

185. In the enquiry into or trial of cases under this chapter, the Subordinate Magistrates shall be guided by the rules herein prescribed for the guidance of the Magistrate of the District in similar cases;

Subordinate Magistrates to follow same procedure as Magistrate.

Police officers and others shall be bound to obey all orders and processes issued in such cases, in like manner as if such orders or processes had been issued by the Magistrate of the District.

186. If, in the course of a trial before a Subordinate Magistrate, the evidence appears to him to warrant a presumption that the accused person has been guilty of an offence which such Magistrate is not competent to try, or for which he is not competent to commit the accused person for trial,

he shall stay proceedings and submit the case to the Magistrate to whom he is subordinate, or to such other Magistrate having jurisdiction as the Magistrate of the District directs.

The Magistrate to whom the case is submitted shall either try the case himself or refer it to any officer subordinate to him having jurisdiction, or he may commit the accused person for trial.

In any such case, such Magistrate or other officer as aforesaid shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

But any statement or confession duly made by an accused person in the course of the trial before the Subordinate Magistrate shall be admissible as evidence.

187. Whenever a Subordinate Magistrate having jurisdiction finds the accused person guilty, and considers that he ought to receive a more severe punishment than the Subordinate Magistrate is competent to adjudge, the Subordinate Magistrate may record the finding and submit his proceedings to the Magistrate to whom he is subordinate.

Such Magistrate, if he thinks fit, may examine the parties and recall and examine any witness who has already given evidence in the case, and he may call for or take any further evidence, and shall pass such sentence or order in the case as he deems proper, and as is according to law.

Or the Subordinate Magistrate may, if he is empowered to hold the preliminary enquiry into cases triable by the Court of Session and to commit persons to take their trial before such Court, commit the accused person for trial before the Court of Session instead of finding him guilty.

CHAPTER V.—Trial by Court of Session.

188. Except in the cases referred to in section 421, no Court of Session shall take cognizance of any offence as a Court of original criminal jurisdiction except upon a charge preferred by a Magistrate or other officer specially empowered under this Act or under any other law to make commitments to such Court.

189. When the Court is ready to commence the trial, the accused person shall be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

If the accused person pleads guilty, the plea shall be recorded, and he may be convicted thereon.

190. If the accused person refuses to plead, or claims to be tried, the Court shall proceed to choose jurors or select assessors as hereinafter directed, and to try the case.

191. In every trial before a Court of Session, the prosecution shall be conducted by the Government Pleader or by some other officer specially empowered in that behalf, and the complainant, if there be a complainant, shall be examined as a witness in the case.

192. The examination of the accused person before the Magistrate shall be given in evidence at the trial.

The attestation of the Magistrate shall be sufficient *prima facie* proof of such examination, and such attestation shall be admitted without proof of the signature to it, unless the Court sees reason to doubt its genuineness.

193. When the case for the prosecution has been brought to a close, the Court may, if it considers that there are no grounds for proceeding with the trial, record a judgment of acquittal; otherwise the accused person shall be called upon to enter upon his defence, and to produce his evidence.

At the close of the evidence, if any is produced on behalf of the accused person, and if not, at the close of the case for the prosecution, the Court may examine the accused person as hereinafter provided, after which he or his Counsel or agent may address the Court on the subject of such examination.

194. The accused person or his Counsel or agent may, at his option, address the Court at the close of the case for the prosecution, or at the close of any evidence that may be adduced on his behalf.

195. If any evidence is adduced on behalf of the accused person, or if he answers any question put to him by the Court, the prosecutor, or the Counsel or agent for the prosecution, shall be entitled to reply.

196. If the accused person is acquitted, the Court shall record a judgment of acquittal.

If the accused person is convicted, the Court shall proceed to pass sentence upon him according to law.

197. The Court may, in its discretion, from time to time adjourn the trial.

198. A Court of Session may direct the postponement of a trial, when it is satisfied that such postponement is proper and will promote the ends of justice.

CHAPTER VI.—*Duties of Assessors and Juries in trials by Court of Session.*

199. In all trials before the Court of Session, there shall be either assessors or jurors, of whom lists shall be formed, and who shall be summoned to attend the sittings of the Court of Session, in the manner hereinafter provided.

200. In a trial before the Court of Session, not by jury, the trial shall be conducted with the aid of two or more assessors as members of the Court, who shall be selected by the Judge from the persons summoned to act as assessors.

201. The opinion of each assessor shall be given orally and shall be recorded in writing by the Judge. The decision is vested exclusively in the Judge.

202. If, in the course of a trial with the aid of assessors, at any time prior to the finding, any assessor is, from any sufficient cause, prevented from attending through the trial, the trial shall proceed with the aid of the other assessor or assessors.

If all the assessors are prevented from attending through the trial, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

203. The Local Government may order that the trial of all offences or of any particular class of offences before any Court of Session shall be by jury in any District, and such Local Government may from time to time revoke or alter such order.

The Local Government may also, if it see fit, direct that, in any District or in any class of offences, the jurors shall, before the trial, be sworn in such form as the Government may prescribe.

Orders passed under this section shall be published in the official Gazette, and in such other manner as the Local Government from time to time directs.

204. In trials by jury before the Court of Session, the jury shall consist of five persons, or of such number, being an uneven number, and not being less than three nor more than nine, as the Local Government, by any general order applicable to any particular District or to any particular classes of offences in that District, directs.

205. Whenever a trial by jury is to be held, the persons who are to constitute the jury shall be chosen by lot immediately before the commencement of the trial from the jurors who attend in obedience to the summons.

206. Before the commencement of a trial by jury the names of the jurors shall be called aloud, and, upon the appearance of each juror, the accused person shall be asked if he objects to be tried by such juror.

Objection may then be made to such juror by the accused person or by the Government Pleader or other person appointed to conduct the prosecution, and the grounds of objection shall be stated.

Any objection made to a juror shall be decided by the Court, and the decision of the Court shall be final.

If an objection be allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons, or, if there be no such juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury, provided no objection to such juror or other person be made and allowed.

207. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed:—

(1.) any ground of disqualification within section 357;

(2.) standing in the relation of husband, master or servant, landlord or tenant, to the person alleged to be injured or attempted to be injured by the offence charged, or to the person on whose complaint the prosecution was instituted, or to the person accused;

(3.) being in the employment on wages of either of such persons;

(4.) being plaintiff or defendant against either of such persons in any civil suit,

(5.) having complained against, or having been accused by, either of such persons in any criminal prosecution,

(6.) any circumstance which, in the judgment of the Court, is likely to cause prejudice against, or favour to, either of such persons.

208. The Judge shall not allow any person to serve on the jury, unless such person understands the language in which the evidence is given or interpreted.

209. The jury shall appoint one of their Foreman of jury. number to be foreman.

It shall be the duty of the foreman to preside in the debates of the jury, to deliver the verdict of the jury, or to ask any information from the Court that may be required by the jury.

If a majority do not agree in the appointment of a foreman, he shall be named by the Court.

Each juror shall, before the trial, make oath to the following effect:—
“I, A. B., do swear [or solemnly affirm] that I will truly judge in the case of the prisoner [or prisoners] at the bar and give my verdict according to the evidence.”

210. The same jury, if not objected to, may try, or the same assessors may aid in the trial of, as many accused persons successively as to the Court seems meet.

211. Whenever, in the opinion of the Court, it is proper and convenient that the jury or assessors should view the place in which the offence charged is said to have been committed, or any other place in which any other transaction material to the enquiry in the trial took place, an order shall be made to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to the place which

shall be shown to them by a person appointed by the Court.

Such officer shall not suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and they shall, when the view is finished, be immediately conducted back into Court.

212. If, in the course of a trial by jury at any time prior to the finding, any juror, from any sufficient cause, is prevented from attending through the trial, Procedure when juror becomes unable to attend.

or if any juror absents himself, and it is not possible to enforce his attendance,

a new juror shall be added, or the jury shall be discharged, and a new jury empanelled, and in either case the trial shall commence anew.

213. In a trial by jury, the Judge shall sum up the evidence on both sides. Summing up evidence.

The jury shall then deliver their finding upon the charge.

A statement of the Judge's direction to the jury shall form part of the record.

In trials not by jury, the ground of the Judge's decision shall be recorded.

214. At the close of the trial, and after the Judge has summed up the evidence as hereinbefore provided, the jury may retire to consider their finding, and it shall be the duty of an officer of the Court not to suffer any person to speak to, or hold any communication with, any member of such jury. Retirement of jury to consider finding.

215. In any case in which a jury is prepared to deliver their finding, the Judge shall ask the jury whether they are unanimous, and if they are unanimous, their verdict shall be accepted and the accused person shall be acquitted or convicted accordingly. Procedure where jury are unanimous.

216. If the jury are not unanimous, the Judge may require them to retire for further consideration. Procedure where jury differ. After such a period as the Judge considers reasonable, the jury may deliver their verdict although they are not unanimous.

217. If a majority of not less than two-thirds agree to convict the prisoner, and if the Judge agrees in their verdict, the prisoner shall be convicted. In any other case he shall be acquitted. Conviction. Acquittal.

218. If a trial is adjourned, the jury or assessors shall be required to attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial. Jury or assessors to attend at adjourned sitting.

219. Criminal trials before the Court of Session in which a European (not Europeans or Americans, being a British subject) or an American is the accused person, or one of the accused persons, shall be by jury. Jury for trial of persons not Europeans or Americans.

In such case the jury, if such European or American desire it, shall consist of at least one-half of Europeans (whether British subjects or not) or Americans, if such a jury can be procured :

Provided that, in any District in which the Election to be tried without jury. Local Government has not ordered that all trials or trial

for all offences of the class within which the trial about to take place falls, shall be by jury, such European or American may elect to be tried without jury.

220. When a trial is held in which the accused person or one of the accused persons is entitled to be tried by a jury constituted under the provisions of section 219, the Court of Session shall, three days at least before the day fixed for holding such trial, cause to be summoned in the manner hereinafter prescribed as many European or American jurors as are required for the trial, if there be so many on the jury-list of the District.

The Court shall also at the same time in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons shall have been summoned for jury trials at that session.

From the whole number of persons returned, the jurors who are to constitute the jury shall be taken by lot in the manner prescribed in section 205 until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as possible, has been obtained.

If a jury containing the requisite number of Europeans and Americans be not obtained, the accused person may elect to be tried by the Judge with the aid of assessors; otherwise he shall be tried by the jury obtained by the means aforesaid.

221. In a trial by jury before the Court of Session of a person not being a European or an American, at least one-half of the jury, if the accused person desire it, shall consist of persons who are neither Europeans nor Americans. Jury for trial of persons not Europeans or Americans.

222. In any case before the Court of Session, in which a European or American is charged jointly with one of a person of any other race, such other person shall, if he desire it, be tried separately if the European or American claims to be tried by a jury consisting of at least one-half of Europeans and Americans. Jury when European or American charged jointly with one of another race.

PART IV.

APPEAL, REFERENCE, AND REVISION.

CHAPTER I.—Appeal.

223. Any person convicted on a trial held by an officer exercising powers less than those of a Magistrate, may appeal to the Magistrate of the District or other officer exercising the powers of a Magistrate, who has been empowered by the Local Government to hear such appeals. Appeals from officers exercising powers less than those of a Magistrate.

224. Any person convicted by any Civil, Criminal or Revenue Court under Part VIII of this Act, chapter III, may appeal to the Court to which decrees or orders made in such Court are ordinarily appealable, subject to the rules provided in sections 232, 233, 234, 236, 237, and 238. Appeals from convictions by Civil Courts.

Petitions of appeal under this section, if presented to any District Court, must be presented within thirty days from the day on which the sentence or order appealed against is passed.

225. Any person convicted and sentenced by any Justice of the Peace exercising jurisdiction under section 47 or under section 387 or 389, may appeal to the Court of Session of the District in which the trial was held.

Cases appealed under this section shall not be afterwards liable to revision by means of a writ of *certiorari*:

Provided that nothing in this section shall take away the power of quashing any conviction by means of a writ of *certiorari* in any case where there has been such an appeal as aforesaid.

226. Any person convicted on a trial held by the Magistrate of the District or other officer exercising the powers of a Magistrate, or required by such Magistrate or other officer under section 443 or section 444 to give security for good behaviour, may appeal to the Court of Session of the District.

227. Any person convicted on a trial held by any officer invested with the power described in section 26, may appeal to the High Court, and no appeal against such conviction shall lie to the Court of Session.

228. Any person convicted on a trial held by a Court of Session may appeal to the High Court.

If the conviction was in a trial held with the aid of assessors, the appeal may be on a matter of fact as well as on a matter of law.

If the conviction was on a trial by jury, the appeal shall be admissible on a matter of law only.

229. There shall be no appeal from a judgment of acquittal passed in any Criminal Court.

230. There shall be no appeal in cases in which a Court of Session or the Magistrate of a District or other officer exercising the powers of a Magistrate passes a sentence of imprisonment not exceeding one month, or of a fine not exceeding fifty rupees.

231. Petitions of appeal to any Appellate Court, except the High Court, must be presented within thirty days from the day on which the sentence or order appealed against is passed.

Petitions of appeal to the High Court must be presented within sixty days, calculated as above.

An appeal may be admitted after the time herein provided on sufficient cause shown.

232. Every petition of appeal shall be accompanied by a copy of the sentence or order appealed against.

233. The Appellate Court may reject the appeal if, on a perusal of the petition of appeal and the copy of the sentence or order appealed against, and after hearing the appellant or his Counsel or agent if they appear, the Court considers that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against.

Before rejecting the appeal, the Court may call for and peruse any part of the proceedings of the lower Court, but shall not be bound so to do.

234. If the party appealing be in jail in pursuance of the sentence or order appealed against, he shall be at liberty to present his petition of appeal and the copy of the sentence or order appealed against, to the Magistrate or other officer in charge of the jail, who shall thereupon forward the petition to the proper appellate authority.

235. A copy of the final sentence or order passed by any Criminal Court, together with the reasons for passing or making the same, shall be furnished without delay on the application of any party to the case in which such sentence or order was passed.

Such copy shall be made at the expense of the person applying for it, unless he is in confinement under the sentence or order and is desirous of appealing against the same, or unless the Court, for any special reason, sees fit to grant such copy free of expense.

236. The Appellate Court, after perusing the proceedings of the lower Court and after hearing the plaintiff or his Counsel or agent if they appear, may alter or reverse the finding and sentence or order of such Court, but not so as to enhance any punishment that has been awarded.

237. In any case in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and if the appellant be in confinement for an offence which is bailable, may order that he be released on bail; and the High Court may exercise the same authority in cases coming before it as a Court of Revision.

238. In any case in which an appeal has been allowed, the Appellate Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the appellant to be necessary, may direct such enquiry to be made and additional evidence to be taken.

The result of the further enquiry and the additional evidence shall be certified to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

Unless the Appellate Court otherwise directs, the presence of the appellant may be dispensed with when the further enquiry is made or evidence taken.

The provisions of this Act relating to summoning and enforcing the attendance of wit-

nesses and their examination shall, so far as may be, apply to witnesses examined under this section.

239. No finding by a Court of the offence of dishonest misappropriation of property under section 403 of the Indian Penal Code,

or of dishonest misappropriation of property possessed by a deceased person at the time of his death under section 404 of the said Code,

or of criminal breach of trust under section 405 of the said Code,

or of criminal breach of trust by a carrier, wharfinger or warehouse-keeper under section 407 of the said Code,

or of criminal breach of trust as a clerk or servant under section 408 of the said Code,

shall be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was

the offence of theft under section 378 of the said Code,

or the offence of theft in a building, tent, or vessel under section 380 of the said Code,

or the offence of theft as a clerk or servant of property in the possession of his master under section 381 of the said Code.

Certain findings not reversible on the ground of offence proved being theft.

240. No finding by a Court of the offence of theft under the said section 378 of the Indian Penal Code,

or of theft in a building, tent, or vessel, under the said section 380,

or of theft as a clerk or servant of property in the possession of his master under the said section 381,

shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was one of the following:—

dishonest misappropriation of property under the said section 403,

dishonest misappropriation of property possessed by a deceased person at the time of his death under the said section 404,

such dishonest misappropriation under the said section, the offender being at the time of the person's decease employed by him as a clerk or servant,

criminal breach of trust under the said section 405,

criminal breach of trust as a carrier, wharfinger or warehouse-keeper under the said section 407,

criminal breach of trust as a clerk or servant under the said section 408:

241. Provided that nothing in sections 239 and 240 shall preclude the Appellate Court, in any case mentioned therein, from reducing the punishment awarded by a lower Court in such case within the limits prescribed for the offence which the Appellate Court considers to have been proved by the evidence against the accused person.

Saving of power of Appellate Court to reduce punishment.

242. No finding or sentence passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error or defect, either in the charge or in the proceedings on trial, unless

Finding or sentence when reversible by reason of error or defect in charge or proceedings.

the accused person has been sentenced to a larger amount of punishment than could be awarded for the offence of which, in the judgment of the Appellate Court, he ought upon the evidence to have been found guilty,

or unless, in the judgment of the Appellate Court, he has been prejudiced by such error or defect.

In case the accused person has been sentenced to a larger amount of punishment than could have been awarded for the offence which, in the judgment of the Appellate Court, is proved by the evidence, the Appellate Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

243. When any Court has convicted a person of an offence not triable by such Court, the Appellate Court may annul the conviction and sentence of such Court, and direct the trial of the case by a Court of competent jurisdiction.

Procedure in case of conviction by Court not having jurisdiction.

244. Except as provided in section 260, sentences and orders passed by an Appellate Court upon appeal shall be final.

Finality of orders on appeal.

Unless otherwise provided, no appeal to lie from order or sentence of Criminal Court.

245. Unless otherwise provided by this Act or by any other law for the time being in force, no appeal shall lie from any order or sentence of a Criminal Court.

CHAPTER II.—Reference.

246. If the Court of Session pass sentence of death, the sentence shall not be executed without the confirmation of the High Court.

If the accused person is convicted of an offence which by the Indian Penal Code is punishable with death, and the Court sentences him to any punishment other than death, the Court shall, in the statement of trials to be periodically submitted to the High Court as hereinafter required, under the head of "Sentences passed upon the accused persons," state the grounds upon which it remitted the punishment of death.

247. A case referred to a High Court by a Court of Session for confirmation of a sentence of death shall be heard by a Court constituted by two or more Judges of such High Court.

Constitution of Court for hearing case referred for confirmation of sentence.

248. In any case so referred, the High Court may either confirm the sentence or pass any other sentence warranted by law, or may annul the conviction and order a new trial on the same or an amended charge.

Power of High Court to confirm sentence or annul conviction.

If the case has been tried by the Court of Session with the aid of assessors, it shall further be competent to the High Court to acquit the accused person and order his discharge.

249. If the case so referred has been tried by the Court of Session with the aid of assessors, the High Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, may direct such enquiry to be made, or such additional evidence to be taken.

The result of the further enquiry and the additional evidence shall be certified to the High Court, and the High Court shall thereupon proceed to pass judgment of acquittal, or such sentence as it thinks fit.

250. In every case so referred to the High Court, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall be signed by at least two Judges of the Court.

251. When the High Court of reference, revision or appeal, in any part of the territories to which this Code has been extended as aforesaid, consists of a single Judge, he shall have all the powers conferred upon two or more Judges of the High Court by this chapter.

CHAPTER III.—Revision.

252. The High Court may make and issue general rules for regulating the practice and proceedings of that Court and of all Criminal Courts subordinate to it,

for keeping all books, entries and accounts to be kept in such Courts, and

for the preparation and transmission of any calendars or statements to be prepared and submitted by such Courts,

and may also frame forms (when not prescribed by this Act) for every proceeding in the said Courts for which it thinks that a form should be provided, and from time to time may alter any such rule or form :

Provided that such rules and forms be not inconsistent with the provisions of this Act, or of any other law in force.

Any rules framed by the Court under this section shall be published in the official Gazette.

253. The High Court may frame rules consistent with this Act for the conduct of business transacted by any two or more Magistrates sitting together, and may from time to time repeal, alter and add to such rules.

All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local Gazette.

254. The Court of Session shall send to the High Court such periodical statements or calendars of trials held by such Court as the High Court prescribes, exhibiting the offences charged, the offences of which the accused persons

are convicted, and the sentences or orders passed upon them.

255. A Court of Session and a Magistrate may at all times call for and examine the record of any Court immediately subordinate to such Court or Magistrate, for the purpose of satisfying itself or himself as to the legality of any sentence or order passed, and as to the regularity of the proceedings of such subordinate Court.

If the Court of Session or Magistrate is of opinion that the sentence or order is contrary to law, the Court or Magistrate shall refer the proceedings for the orders of the High Court.

No Court other than the High Court shall alter any sentence or order of any subordinate Court except upon appeal by parties concerned, duly made according to the provisions of Part IV, chapter I of this Act.

256. In the case of offences specified in the seventh column of the second schedule hereto annexed, as triable by the Court of Session only or by the Court of Session or Magistrate of the District, the Court of Session may order the commitment of any accused person who may have been discharged by any Magistrate.

In the case of such offences, the Court of Session may order an enquiry into any complaint which any Magistrate may have dismissed without enquiry.

In the case of such offences the Magistrate of the District shall have like powers where the Magistrate who has discharged the accused person or dismissed the complaint without enquiry is a Subordinate Magistrate.

If the Court of Session considers that any person convicted by a Magistrate has committed an offence not triable by such Magistrate, it may annul the conviction and sentence, and direct the commitment of the accused person for trial before itself.

257. The High Court, in any case tried by the Court of Session in which upon a review of the abstract statement or calendar of prisoners punished without reference, it appears that the sentence passed is one which cannot lawfully be passed on a person convicted of the offence as stated in the abstract statement or calendar, shall annul the sentence, and shall certify to the Court of Session the sentence which may lawfully be passed for such offence ;

Thereupon the Court of Session shall pass a new sentence according to law, and shall amend the record in accordance therewith.

258. The High Court, in any case tried before a Court of Session in which, upon a review of the abstract statement or calendar of prisoners punished without reference, it appears that there has been error in the decision of the Court of Session on a point of law, or that a point of law should be considered by the High Court, may call for the record, or such portion thereof as it deems necessary, together with a report of the Judge's direction to the jury, if the case have been tried by a jury,

and, upon reviewing the depositions of the witnesses, the direction of the Judge, and the conviction, may determine any point of law arising out of the case, and thereupon pass such order as to the High Court seems right.

259. The High Court may, on the report of a Court of Session or of a Magistrate, or whenever it thinks fit, call for the record of any criminal trial or the record of any judicial proceeding of a Criminal Court, other than a criminal trial, in any Court within its jurisdiction, in which it appears to it that there has been error in the decision on a point of law, or that a point of law should be considered by the High Court, and may determine any point of law arising out of the case, and thereupon pass such order as to the High Court seems right.

260. The High Court may call for and examine the record of any case tried by any Court of Session for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed, and as to the regularity of the proceedings of such Court.

If it appear to the High Court that the sentence passed is too severe, the High Court may pass any mitigated sentence warranted by law.

If the High Court is of opinion that the sentence or order is contrary to law, it shall reverse the sentence or order, and pass such judgment, sentence, or order as to the Court seems right, or, if it deems necessary, may order a new trial.

261. Whenever a case is revised by the High Court under this chapter, it shall certify its decision or order to the Court in which the conviction was had or by which the order was passed; or if the conviction or order was passed by a Magistrate other than the Magistrate of the District, to the Magistrate of the District.

The Court or Magistrate to which the High Court certifies its order shall thereupon make such orders as are conformable to the decision of the High Court, and, if necessary, the record shall be amended in accordance therewith:

Provided that, in any case revised by the High Court under this chapter, the High Court shall not reverse the verdict of the jury, or, except as provided in this chapter, alter or reverse the sentence or order of the Court below.

262. No trial held in any Criminal Court shall be set aside, and no judgment passed by any Criminal Court shall be reversed, either on appeal or otherwise, for any irregularity in the proceedings of the trial, unless such irregularity have occasioned a failure of justice.

PART V. EXECUTION.

263. In cases referred by the Court of Session for the confirmation of a sentence by the High Court, the proper officer of the

High Court shall without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order under the seal of the High Court, and attested with his official signature, to the Court of Session.

Such Court shall, if the sentence be confirmed immediately, issue a warrant to the officer in charge of the jail in which the prisoner is confined, to cause the sentence or order to be carried into execution; or, in the case of any other order, shall cause such order to be carried into effect.

264. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence to the Magistrate of the District in which the trial was held.

If the accused person is sentenced to imprisonment, the Court shall forthwith forward him, with a warrant for the execution of the sentence, to the officer in charge of the jail of the District in which the trial was held.

The warrant shall state the offence of which the accused person has been convicted and the period during which he is to be imprisoned and the nature of the imprisonment.

In cases tried by any Court inferior to a Court of Session, the Court passing the sentence shall forthwith forward the accused person, with a similar warrant for the execution of the sentence, to the officer in charge of the jail of the District in which the trial was held.

265. Upon the receipt of a warrant under section 263 or 264, the officer in charge of the jail shall cause the sentence to be executed, and shall return the warrant, when the sentence has been fully executed, to the Court from which it issued, with an endorsement under his signature, certifying the manner in which the sentence has been executed.

266. If a prisoner sentenced to punishment is seized with illness or is liable to personal infirmity, such that the execution of the sentence would produce corporal evil of a sort not intended, or is pregnant, the officer whose duty it is to execute the sentence may delay its execution until such illness or infirmity or pregnancy has ceased:

Provided that, if the illness or infirmity appear to be permanent, he shall report the case to the High Court, and such Court may recall the warrant and issue another containing a sentence of such commuted punishment as it thinks fit.

267. Whenever an offender is sentenced to pay a fine, the Court which sentences him may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment.

Such warrant may be executed within the jurisdiction of the Court that issued it, and it shall authorize the distress and sale of any moveable property belonging to the offender without the jurisdiction of the said Court when endorsed by the Magistrate of the District in which such property is situated.

268. Whenever a Criminal Court imposes a fine, the Court may order the whole or any part of the fine to be paid in compensation,

(1.) for expenses properly incurred in the prosecution,

(2.) for the offence complained of, where such offence can, in the opinion of the Court, be compensated by money.

Such payment shall be made, as the Court thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be awarded by a Court whose decision is subject to revision, the amount awarded shall not be paid until a period of two months has elapsed from the date of the award.

269. In every case punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Criminal Courts shall be guided by the provisions of sections 64 and 65 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine :

Provided that, in no such case decided by a Magistrate, shall the period of imprisonment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which he is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

270. When the punishment of whipping is awarded in addition to imprisonment, by a Court whose sentence is open to revision by a superior Court, the whipping shall not be inflicted until fifteen days from the date of such sentence, or if an appeal be made within that time, until the sentence is confirmed by the superior Court : but the whipping shall be inflicted immediately on the expiry of the fifteen days, or in case of an appeal immediately on the receipt of the order of the Court confirming the sentence if such order is not received within the fifteen days.

271. In the case of an adult, the punishment of whipping shall be inflicted with such instrument in such mode and on such part of the person as the Local Government directs, and in the case of a juvenile offender, it shall be inflicted in the way of school discipline with a light rattan.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the rattan be employed, shall the punishment exceed thirty stripes.

The punishment shall be inflicted in the presence of a Justice of the Peace, or of an officer authorized to exercise any of the powers of a Magistrate, and also, unless the Court which passed the sentence otherwise orders, in the presence of a Medical Officer.

272. No sentence of whipping shall be carried into execution unless a Medical Officer, if present, certifies, or unless it appears to the Justice of the Peace

or other officer present, that the offender is in a fit state of health to undergo the punishment.

If during the execution of a sentence of whipping, a Medical Officer certifies, or it appears to the officer present, that the offender is not in a fit state of health to undergo the remainder of the punishment, execution shall be finally stopped.

Nor by instalments. No sentence of whipping shall be executed by instalments.

273. In any case in which, under section 272, no part of a sentence of whipping is carried into execution, the offender shall be kept in custody till the Court which passed the sentence can revise it, and the said Court may, at its discretion, either order his discharge, or sentence him in lieu of whipping to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence ;

provided that the whole period of imprisonment shall not exceed that to which the offender is liable under the provisions of the Indian Penal Code, or that which the said Court is competent to award.

274. When a person is convicted at one time of two or more offences punishable under the same or different sections of the Indian Penal Code, the Court may sentence him for the offences of which he has been convicted to the several penalties prescribed by the said Code which such Court is competent to inflict ; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other.

It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court ;

Provided that in no case shall the person be sentenced to imprisonment for a longer period than fourteen years :

Provided also that, if the case be tried by a Magistrate, the punishment shall not in the aggregate exceed twice the extent of punishment which he is by his ordinary jurisdiction competent to inflict.

275. When sentence is passed on an escaped convict for such escape or for any other offence, the Court may direct the sentence to take effect immediately, or after such convict has suffered imprisonment or transportation, as the case may be, for a further period equal to that which remained unexpired of his former sentence at the time of his escape.

276. When sentence is passed on a person already under sentence of imprisonment or transportation for another offence, the Court, if the sentence be for imprisonment, shall direct the such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced,

or, if he is undergoing a sentence of imprisonment, and the sentence, on such subsequent con-

viction, be for transportation, the Court may direct that the sentence shall commence immediately, or at the expiration of the imprisonment to which such person has been previously sentenced :

Provided that nothing in this section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

277. When any person is sentenced to imprisonment, the Local Government may, or, subject to their orders and under their control, the Inspector General of Jails, may order his removal during the period prescribed for his imprisonment from the jail or place in which he is confined to any other jail or place of imprisonment within the jurisdiction of the same Local Government.

278. When any person under the age of sixteen years is sentenced by any Magistrate or Court of Session to imprisonment for any offence, such Magistrate or Court may direct that such offender, instead of being imprisoned in the criminal jail, shall be confined in any reformatory recognised by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry, and which is kept by a person willing to obey such rules as the Government prescribes with regard to the discipline and training of persons confined therein.

All persons confined under this section shall be subject to the rules so prescribed by Government.

279. The Governor General of India in Council may from time to time appoint a place or places within British India to which persons sentenced to transportation shall be sent: the Local Government, or some officer duly authorized by such Government, shall give orders for the removal of such persons to the place or places so appointed; and no sentence of transportation shall specify the place to which the person sentenced is to be transported.

280. When sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence, it shall not be necessary for the Local Government to order his removal from the place in which he is so undergoing transportation.

281. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

282. When any person has been sentenced to punishment for an offence, the Governor General of India in Council, or the Local Government, may, at any time, without conditions, or upon any conditions which the person sentenced accepts, remit the whole or any part of the punishment to which he has been sentenced.

The Governor General in Council, or the Local Government, may also, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it, death, transportation, penal servitude, imprisonment.

PART VI. EVIDENCE.

CHAPTER I.—General Rules of Evidence.

283. The rules contained in this chapter shall be applicable to all trials and enquiries before Criminal Courts.

284. The Court shall receive as *prima facie* evidence the examination of a Civil Surgeon or other medical witness taken and duly attested by the Magistrate.

Provided that the Court may summon such Civil Surgeon or other medical witness, if it see sufficient cause for doing so.

285. The examination of a witness taken and attested by the Magistrate in the presence of the accused person may be given in evidence, if the witness be dead, or the Court be satisfied that for any sufficient cause his attendance cannot be procured.

286. Any document purporting to be a report from the Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report in the course of any criminal trial or in any preliminary enquiry relating thereto, shall, if it bears his signature, be received in evidence at a trial by the Court of Session.

No proof of such signature or that the person signing holds such office, shall be requisite, unless the Court sees reason to doubt the genuineness of the document.

287. The declaration of a deceased person, whether it be reduced to writing or not, and whether it be made in the presence of the accused person or not, may be given in evidence if the deceased person at the time of making such declaration believed himself to be in danger of approaching death, although he entertained at the time of making it hopes of recovery.

CHAPTER II.—Evidence how taken.

288. In all Criminal Courts, complainants and witnesses shall be examined upon oath or affirmation, or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

289. In inquiries and trials under this Act the evidence of the witnesses shall be recorded by the Magistrate or Judge, as the case may be, in the following manner.

290. In cases tried before Magistrates in which a summons usually issues, the Magistrate shall make a memorandum of the substance of the evidence of each witness, as the examination of the witness proceeds.

The memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

291. In all other cases whether before Magistrates or Courts of Session, the evidence of each witness shall be taken down in writing in the language in ordinary use in the District in which the Court is held, by or in the presence and hearing and under the personal direction and superintendence of the Magistrate, and shall be signed by the Magistrate.

When the evidence of a witness is given in English, the Magistrate may take it down in that language with his own hand, and an authenticated translation of the same, in the language in ordinary use in the District in which the Court is held, shall form part of the record.

In cases in which the evidence is not taken down in writing by the Magistrate, he shall, as the examination of each witness proceeds, make a memorandum of what such witness deposes, and such memorandum shall be written and signed by the Magistrate with his own hand, and shall be annexed to the record.

If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

292. The Local Government may direct that in any District or part of a District the evidence of complainants or witnesses shall be taken down by the Magistrate with his own hand in the vernacular language of the Magistrate, unless the Magistrate be prevented by any sufficient reason from taking down the evidence of any complainant or witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court.

The evidence so taken down shall be signed by the Magistrate, and shall form part of the record:

Provided that, if the vernacular language of the Magistrate be not English or the language in ordinary use in the District in which the Court is held, the Local Government may direct him to take down the evidence in the English language or in

the language in ordinary use in the District in which the Court is held, instead of his own vernacular.

293. In cases tried before Magistrates in which a summons usually issues, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 291, or if within the jurisdiction of such Magistrate, the Local Government has made the order referred to in section 292, in the manner provided in section 292.

294. The Local Government may determine what, for the purposes of this Act, shall be held to be the language in ordinary use in any District in which a Court is held.

295. The evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

It shall be in the discretion of the Magistrate to take down, or cause to be taken down, any particular question and answer, if there appear any special reason for so doing, or any person who is a prosecutor or a person accused, or his Counsel or agent, requires it.

When the evidence is completed, it shall be read over to the witness in the presence of the accused person if in attendance, or of his agent when his personal attendance is dispensed with and he appears by agent, and shall, if necessary, be corrected.

If the witness deny the correctness of any part of the evidence when the same is read over to him, the Magistrate may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his evidence as taken down to be interpreted to him in the language in which it was given, or in a language which he understands.

296. A memorandum to be signed by the Magistrate shall be attached to the evidence of every witness, whether for the prosecution or the defence, and shall state that the evidence was read over to the witness in a language which he understood (naming the language), and, if the fact is so, that the witness acknowledged such evidence to be correct.

When the evidence is not taken down by the Magistrate with his own hand, the memorandum shall further state that the evidence was taken down in his presence and hearing, and under his personal direction and superintendence.

297. If the evidence is given in a language not understood by the accused person, it shall be interpreted to him in open Court in a language understood by him, in all cases where he is present in person.

If he appears by agent, and the evidence is given in a language other than the language in ordinary use in the District in which the Court is held, it shall be interpreted to such agent in that language.

298. Every Judge or Magistrate recording the evidence of a witness shall record such remarks as he thinks material respecting the demeanour of such witness whilst under examination.

Remarks respecting demeanour of witness.

299. Sections 296, 297 and 298 shall not apply to evidence taken by a Magistrate in cases in which a summons usually issues, unless he thinks fit to act under section 293.

Sections 296, 297 and 298 not to apply in certain cases.

CHAPTER III.—Of the Examination of Persons accused.

300. In inquiries and trials before Magistrates, the Magistrate may, from time to time and at any stage of the proceedings,

Accused may be questioned.

and in trials before the Court of Session, the Court at the close of the case for the prosecution and at the close of the evidence (if any) on behalf of the accused person,

may put any questions to the accused person which the Magistrate or Court may think proper.

It shall be in the option of the accused person to answer such questions.

301. No influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge.

No influence to be used to induce disclosures.

302. No oath or affirmation shall be administered to the accused person.

Accused not to be sworn.

303. In inquiries and trials before Magistrates, the examination of the accused person, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

Examination of accused how recorded.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

304. The Magistrate of the District or other officer exercising the powers of a Magistrate, and any Subordinate Magistrate duly empowered under section 33, recording his reason for so doing, may tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in or privy to any offence specified in column seven of the second schedule hereto annexed as triable by the Court of Session, on condition of his or their making a full, true and fair disclosure of the whole of the circumstances within his or their knowledge relative to the crime committed, and every other person concerned in the perpetration thereof.

Magistrate may tender pardon to accomplice.

Any person accepting a tender of pardon under this section, shall be examined as a witness in the case under the rules applicable to the examination of witnesses.

Such person, if not on bail, may, if the Magistrate or other officer as aforesaid thinks proper, be detained in custody pending the termination of the trial.

305. The High Court as a Court of reference, in cases tried with the aid of assessors, and the Court of Session, after committal but before the commencement of a trial, may, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, instruct the Magistrate to tender a pardon on the same condition to such person or persons.

High Court or Court of Session may direct tender of pardon.

The Court of Session in like manner and on the same condition may, at any time during a trial, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, tender a pardon to such person or persons.

306. When a pardon has been tendered under section 304 or section 305, if it appears to the Magistrate before the committal, or to the Court of Session at the time of trial, or to the High Court as a Court of reference, that any person who has accepted an offer of pardon has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence or information, such Magistrate or Court may commit or direct the commitment of such person for trial for the offence in respect of which the pardon was so tendered.

When High Court or Court of Session may direct commitment of person to whom pardon has been tendered.

CHAPTER IV.—Of securing the Attendance of Witnesses.

307. The following procedure shall be pursued in order to obtain the attendance of witnesses in cases in which a person accused or suspected of crime is brought or appears before a Magistrate.

Procedure for obtaining attendance of witnesses.

308. In cases usually tried before a Magistrate upon summons, the Magistrate may summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused.

In cases tried upon summons.

309. In cases usually tried before a Magistrate upon warrant, the Magistrate shall ascertain from the complainant or otherwise the names of any persons who may be acquainted with the facts and circumstances of the case, and are likely to give evidence for the prosecution, and summon them before him to give evidence.

In cases tried upon warrant.

The Magistrate shall also summon any witness and examine any evidence that may be offered in behalf of the accused person to answer or disprove the evidence against him, and may for that purpose, at his discretion, adjourn the trial from time to time.

310. In inquiries preliminary to commitment to a Court of Session, the Magistrate shall procure the attendance of witnesses for the prosecution as in cases usually tried upon

In inquiries preliminary to commitment to Court of Session.

warrant, and it shall be in his discretion to summon any witness offered in behalf of the accused person to answer or disprove the evidence against him.

311. In such inquiries, when the person accused is to be committed for trial and has given in the list of witnesses mentioned in section 309, the Magistrate shall summon the witnesses to appear before the Court before which the accused person is to be tried.

312. If the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness is material.

If the Magistrate be not so satisfied, he shall not be bound to summon the witness, unless such a sum is deposited with the Magistrate as he thinks necessary to defray the expense of obtaining the attendance of the witness.

313. The accused person shall be allowed to examine any witness not previously named by him if such witness be in attendance, but he shall not be entitled of right to have any witness summoned other than the witnesses named in the list delivered to the Magistrate by whom he was committed or held to bail for trial, except as provided in section 402.

314. Any Court or Magistrate may at any stage of any inquiry or trial material witness or summon or examine any witness whose evidence appears essential to the just decision of the case, or examine any person in attendance though not summoned as a witness.

315. If the Magistrate has reason to believe that any witness whose attendance is required will not attend to give evidence without being compelled to do so, he may, instead of issuing a summons, issue his warrant of arrest in the first instance.

316. If the warrant cannot be served, and the Magistrate is satisfied that the witness absconds or conceals himself for the purpose of avoiding the service thereof, he may issue a proclamation, requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of his ordinary place of abode.

If the witness does not attend at the time and place named in such proclamation, the Magistrate may order the attachment of any moveable property belonging to such witness to such amount as he deems reasonable, not being in excess of the amount of costs of attachment and of any fine to which the witness may be liable under the provisions of the following section.

Such order shall not authorize the attachment of any property out of the jurisdiction of the Magistrate by whom it is made, but it shall authorize the attachment of property in the jurisdiction of any Magistrate by whom such order is endorsed.

317. If the witness appears and satisfies the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as he thinks fit.

If such witness does not appear, or appearing, fails to satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not such notice of the proclamation as aforesaid, the Magistrate may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which he may impose upon such witness under the provisions of section 172 of the Indian Penal Code.

If the witness pays to the Magistrate the costs and fine as aforesaid, the Magistrate shall order the property to be released from attachment.

318. If any person summoned to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no valid excuse is offered for such neglect or refusal, the Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand and seal, to bring such person before him to testify as aforesaid.

319. If any person summoned or brought before a Magistrate refuses to answer such questions as are put to him, without offering any valid excuse for such refusal, the Magistrate may, by warrant under his hand and seal, commit him to custody for any term not exceeding seven days, unless in the meantime he consents to be examined and to answer, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 387.

320. If any witness before a Court of Session refuses to answer any question which shall be put to him, and does not offer any just excuse for such refusal, the Court may commit him to custody for such reasonable time as it deems proper, unless in the meantime he consents to be examined and to answer.

In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 387.

321. Prosecutors and witnesses for the prosecution, whose attendance may be necessary before the Court of Session, shall execute before the Magistrate recognizances in the Form (E) given in the appendix, or to the like effect, to be in attendance when called upon at the Court of Session, to prosecute or to give evidence, as the case may be.

If any prosecutor or witness refuses to attend before the Court of Session or to execute

the recognizance above directed, the Magistrate may detain him in custody, until he executes such recognizance, or until the time when his attendance at the Court of Session is required, when the Magistrate shall send him under custody to the Court of Session.

CHAPTER V.—Of Search-Warrants.

322. When a Magistrate considers that the production of anything is essential to the conduct of an enquiry into an offence known or suspected to have been committed, or when he considers that such enquiry will be furthered by the search or inspection of any house or place, he may grant his search-warrant, and the officer charged with the execution of such warrant may search any house or place within such Magistrate's jurisdiction.

The Magistrate may, if he see fit, specify in his warrant the house or place, or part thereof, to which only the search or inspection shall extend, and the officer charged with the execution of such warrant shall then search only the house, place or part so specified.

323. A search-warrant shall ordinarily be directed to a Police officer, but the Magistrate issuing the warrant may, if he see fit, direct it to any other person.

324. A search-warrant directed to an officer in charge of a Police-station may, if he is not able to proceed in person, be executed by any officer subordinate to him.

In such case the name of such subordinate officer shall be endorsed upon the warrant by the officer to whom it is directed.

325. When it is necessary for a search-warrant to be executed out of the jurisdiction of the Magistrate issuing the warrant, the Magistrate within whose jurisdiction the warrant is to be executed shall endorse his name thereon.

Such endorsement shall be sufficient authority for the Police officer charged with the execution of the warrant to execute the same within the same jurisdiction.

Or the search-warrant may be directed to the Magistrate within whose jurisdiction the search is to be made, and he shall thereupon endorse his name on such warrant and enforce its execution in the same manner as if it had been issued by himself.

326. Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate in whose District the warrant is to be executed will prevent the discovery of the thing for which search is to be made, the Police officer charged with the execution of the warrant may execute the same in any place beyond the jurisdiction of the Magistrate by whom it was issued without the endorsement of the Magistrate in whose jurisdiction that place is situate.

If the thing for which search is made is found in such place, it shall be immediately taken before the Magistrate in whose jurisdiction it is found, and, unless there be good cause to the contrary, he shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

327. If the thing searched for be found within the local limits of a High Court, it shall be taken to the Chief Commissioner of Police or to a Police Magistrate, who shall act in the manner prescribed in section 326.

328. Whenever it appears necessary, a Magistrate may, by the warrant, order search to be made in a place out of his jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose jurisdiction the search is to be made.

When a Magistrate issues a warrant under this section, he shall inform the Magistrate within whose jurisdiction the house or place to be searched is situate, or if the house or place be situate within the local limits of any High Court, he shall inform the Chief Commissioner of Police, of the issue of such warrant.

329. A Magistrate issuing a search-warrant to be executed in any house or place out of the jurisdiction of the Magistrate of the District, may direct the warrant to any Magistrate within whose jurisdiction such house or place is situate, and may send the same by post.

On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name thereon and enforce its execution in the same manner as if it had been originally issued by himself.

If the warrant is to be executed within the local limits of the High Court, it shall be addressed to the Commissioner of Police or to a Police Magistrate.

In such case any property found on search made may be dealt with as provided in sections 326 and 327.

330. If the Magistrate of the District or a Magistrate in charge of a division of a District, or any other officer exercising the powers of a Magistrate, upon information and after such enquiry as he thinks necessary, has reason to believe that any house or other place is used as a place for the deposit or sale of stolen property, or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or any counterfeit coin, or instruments or materials used for counterfeiting

coin, or for forging, are kept or deposited in any house or other place,

he may by his warrant authorize any Police officer above the rank of a constable to enter, with such assistance as may be required, and by force if necessary, any such house or other place, and to search all such parts of the same as are specified in the warrant, and to seize and take possession of any property, documents, stamps, seals, or coins therein found, which he may reasonably suspect to be stolen, forged, false, or counterfeit, and also of any such instruments and materials as aforesaid.

331. The Magistrate by whom a search-warrant is issued may attend personally for the purpose of seeing that the warrant is duly executed.

The Magistrate may also direct a search to be made in his presence, of any house or place for the search of which he is competent to issue a search-warrant.

332. Whenever an officer in charge of a Police-station considers that the production of anything is necessary to the conduct of an enquiry into any offence which he is authorized to investigate, he may search or cause search to be made for the same, in any house or place within the limits of such station.

In such case, the officer in charge of the Police-station shall, if practicable, conduct the search in person.

If unable to conduct the search in person, and there is no other person competent to make the search present at the time, the officer in charge of the Police-station may require any officer subordinate to him to make the search, and he shall deliver to such officer an order in writing, specifying the property for which search is to be made and the house or place to be searched, and the subordinate officer may thereupon search for such property in such house or place.

The provisions of sections 335 to 338 (both inclusive), relating to search-warrants, shall be applicable to a search under this section made by or under the direction of an officer in charge of a Police-station.

333. An officer in charge of a Police-station may require an officer in charge of another Police-station, whether subordinate to the same Magistrate as himself or to a Magistrate of another District, to cause a search to be made in any house or place in any case in which the former officer might cause such search to be made within the limits of his own station.

334. An officer in charge of a Police-station may, without a warrant, enter any shop or premises within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing used or kept therein, whenever he has reason to believe that there are in such shop or premises any weights, measures, or instruments for weighing which are false.

If he finds in such shop or premises any weights, measures, or instruments that are false, he may seize the same, and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

335. If the house or place to be searched is closed, it shall be the duty of any person residing in or being in charge of such house or place, on demand of the officer or other person executing the warrant, to allow such officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

336. A Police officer, or other person authorized by a warrant to search any house or place, may break open any outer or inner door or window of the house or place, in order to execute the warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

337. If the place ordered to be searched is an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the officer or other person charged with the execution of the warrant shall give notice to such woman in such apartment, not being a woman against whom a warrant of arrest has been issued, that she is at liberty to withdraw.

After giving such notice and allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, he may enter such apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of property.

338. The search of any house or place under this chapter shall be made in the presence of two or more respectable inhabitants of the place in which the house or place searched is situate, but they shall not be required to attend the Court of the Magistrate as witnesses, unless specially summoned by him.

The occupant of the house or place or some person in his behalf shall, in every instance, be permitted to attend during the search.

339. Whenever it is necessary to cause a woman to be searched, the search shall be conducted with strict regard to the habits and customs of the country.

PART VII.

PROCEDURE INCIDENTAL TO INQUIRY AND TRIAL.

CHAPTER I.—*Bail.*

340. When any person appears or is brought before a Magistrate accused of any of the offences specified as bailable in column five of the second schedule hereto annexed, he shall be admitted to bail.

341. When any person appears or is brought before a Magistrate accused of any offence entered as not bailable in column five of the second schedule hereto annexed, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the crime imputed to him.

If the evidence given in support of the accusation is, in the opinion of the Magistrate, not such as to raise a strong presumption of the guilt of the accused person and to require his committal,

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt, but there appears to the Magistrate in either of such cases to be sufficient ground for further enquiry into his guilt,

the accused person shall be admitted to bail pending such enquiry.

342. The Court of Session may direct that any accused person shall be admitted to bail, or that the bail required by a Magistrate be reduced.

343. When a Magistrate admits to bail any person accused or suspected of any offence, a recognizance in such sum of money as the Magistrate thinks sufficient, shall be entered into by the person so accused and one or more sureties, conditioned that such person shall attend during the preliminary enquiry, and, if required, shall appear when called upon at the Court of Session to answer the charge.

344. If through mistake or fraud insufficient bail has been taken, or if the sureties become afterwards insufficient, the accused person may be ordered by the Magistrate to find sufficient sureties, and, in default, may be committed to prison.

345. If the accused person cannot find sureties when called upon, he shall be admitted to bail upon finding the same at any time afterwards before conviction.

346. After the recognizances have been duly entered into, the Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon discharge him; and in case he is in some prison or other place of confinement, shall issue a warrant of discharge to the jailor or other person having him in his custody, and such jailor or other person shall thereupon liberate him.

347. The sureties for an accused person may, at any time, apply to the Magistrate to be discharged from their engagements.

On such an application being made, the Magistrate shall issue his warrant of arrest, directing that such person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and, in default, may order him to be committed to prison.

348. Whenever, by reason of default of appearance of the person executing the personal recognizance, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty by the attachment and sale of the moveable property belonging to such person, which may be found within the jurisdiction of the Magistrate of the District.

349. Whenever, by reason of default of appearance by the person bailed, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid.

If no sufficient cause be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties by the attachment and sale of any moveable property belonging to him or them which may be found within the jurisdiction of the Magistrate of the District.

If the penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the Civil jail, during a period not exceeding six months.

350. The powers given by sections 348 and 349 may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court according to the conditions of such recognizance or bail:

Provided that the Magistrate or Court may, at his or its discretion, remit any portion of the penalty mentioned in the personal recognizance or in the recognizance of the surety or sureties, and enforce payment in part only:

All orders passed by any Magistrate under this section or section 348 or 349 shall be subject to revision by the Magistrate of the District.

351. When any person is required by any Criminal Court to give bail, such Court may permit such person to deposit a sum of money or Government promissory notes to such amount as it may fix in lieu of such bail.

CHAPTER II.—*Formation of Lists of Jurors and Assessors and their Attendance.*

352. The Collector of the District or such other officer as the Local Government from time to time appoints in this behalf, shall prepare and make out in alphabetical order a list of persons residing within ten miles from the place where trials before the Court of Session are held, or within such other distance as the Local Government thinks fit to direct, who are in the judgment

of the Collector or other officer as aforesaid qualified from their education and character to serve as jurors or as assessors, respectively.

The list shall contain the name, place of abode, and quality or business of every such person; and if the person is a European or an American, the list shall mention the race to which he belongs.

353. Copies of such list shall be stuck up in

Publication of list.

the office of the Collector or other officer as aforesaid and in the Court-houses of the Magistrate of the District and of the Chief Civil Court, and in some conspicuous place in the town or towns near or in the vicinity of which the persons named in the list reside.

To every such copy shall be subjoined a notice, stating that objections to the list will be heard and determined by the Collector or other officer as aforesaid at a time and place to be mentioned in the notice.

354. The Collector or other officer as aforesaid

Revision of list.

shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not qualified in his judgment to serve as a juror or as an assessor, or who may avail himself of the exemption from service given by section 358, and insert the name of any person omitted from the list whom he deems qualified for such service.

A copy of the revised list shall be signed by the Collector or other officer as aforesaid and sent to the Court of Session.

Any order of the Collector or other officer as aforesaid in preparing and revising the list shall be final.

355. The list so prepared and revised shall be

Annual revision of list.

again revised at least once in every year.

The list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

356. All male persons between the ages of

Jurors and assessors.

twenty-one and sixty, resident within the local limits of the jurisdiction of the Court of Session, except those hereinafter mentioned, shall be deemed capable of serving as jurors and assessors, and shall be liable to be summoned accordingly.

357. The following persons are incapable of

Disqualifications.

serving as jurors or as assessors in trials before the Court of Session, namely:—

Persons who hold any office in or under the said Court.

Persons executing any duties of Police or entrusted with any Police functions.

Persons who have been convicted of any offence against the State, or of any fraudulent or other offence which, in the judgment of the Collector, renders them unfit to serve on the jury.

Persons afflicted with any infirmity of body or mind, sufficient to incapacitate them from serving.

Persons who, by habit or religious vows, have relinquished all care of worldly affairs.

358. The following persons are exempt from

Exemptions.

the liability to serve as jurors or as assessors, namely:—

Judges and other judicial officers.

Commissioners and Collectors of Revenue or Customs.

All persons engaged in the Preventive Service in the Customs Department.

All persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty.

Chaplains and others employed in religious offices.

All persons in the Military service.

Surgeons and others who openly and constantly practise in the profession of Physic.

Persons employed in the Post Office and Electric Telegraph Departments.

Persons actually officiating as priests in their respective religions.

Persons exempted by Government from personal appearance in Court under the provisions of the Code of Civil Procedure, section 22.

The exemption from service given by this section is a right of which each person exempted may avail himself or not.

Nothing herein contained shall be construed to disqualify any such person, if he is willing to serve as a juror or as an assessor.

359. The Court of Session shall ordinarily,

Court to summon jurors.

three days at the least before the time fixed for the holding of sessions, cause the Magistrate to summon as many persons named in the said revised list as seem to the Court to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any case about to be tried at such sessions.

The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them, and shall be specified in the precept to the Magistrate.

360. Every summons to a juror or assessor

Form and service of summons.

shall be in writing, and shall require his attendance as a juror or assessor at a time and place to be therein specified.

The summons or a copy thereof shall be served on every juror or assessor personally.

If the juror or assessor summoned be absent from his usual place of abode, the summons may be left for him there with some adult male member of his family residing with him.

361. The Court of Session may direct jurors or

Power to summon another set of jurors or assessors.

assessors to be summoned at other periods than the period specified in section 359, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive, or whenever it is found to be necessary.

362. If any person summoned to serve as a

Service of summons on officer of Government.

juror or assessor be in the service of Government, the summons shall be sent to him through the head

officer of the office in which he is employed, and the Court may excuse the attendance of such person if it appear, on the representation of such head officer, that the person summoned cannot serve as a juror or assessor without inconvenience to the public service.

Court may excuse attendance of juror or assessor.

363. The Court of Session may excuse any juror or assessor from attendance for reasonable cause.

364. At each session the Court shall cause to be made a list of the names of those who serve as jurors or assessors at such session.

List of jurors or assessors attending.

The list shall be kept with the revised list of the jurors and assessors prepared under section 354.

A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

365. Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

Penalty for non-attendance of juror or assessor.

Such fine shall be levied by the Magistrate of the District by attachment and sale of any moveable property belonging to such juror or assessor within the jurisdiction of the Court making the order.

In default of recovery of the fine by such attachment and sale, such juror or assessor may be imprisoned in the civil jail for the space of fifteen days if the fine be not sooner paid.

CHAPTER III.—Miscellaneous Provisions.

366. The seizure by any Police officer of property alleged or suspected to have been stolen, or of property seized by any Police officer under circumstances

Procedure by Police upon seizure of stolen property.

which create suspicion of the committal of any offence, shall be forthwith reported to a Magistrate, who shall thereupon make such order respecting the custody and production of the property as he thinks proper.

If the property is of a perishable nature, or if it appear to the Magistrate that its sale would be for the benefit of the owner, he may at any time direct it to be sold, and shall hold the proceeds in trust for the owner subject to the provisions contained in sections 367 and 368:

Sale of perishable property.

Provided that no Subordinate Magistrate of the Second Class shall exercise this power unless he is generally or specially authorized to do so by the Magistrate of the District.

367. When the owner of any such property is unknown, the Magistrate may detain the same, or the proceeds thereof if sold, and, in case of such detention, shall issue a proclamation specifying the articles of which such property consists or consisted, and requiring any person who may have a claim thereto or to the proceeds

thereof to appear before him and establish his claim within six months from the date of such proclamation.

368. If no person within such period establishes his claim to such property or proceeds, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, the property shall be at the disposal of the Government, and may be sold under the orders of the Magistrate of the District, or, if it has been already sold by the Magistrate, the proceeds shall be at the disposal of the Government.

369. When the trial in any Criminal Court is concluded, the Court at Order for disposal of property regarding which offence committed. the time of passing judgment may make such order as appears right for the disposal of any property produced before it regarding which any offence appears to have been committed.

370. Any Court of appeal, reference or revision may direct any such Stay of such order. order passed by a Court subordinate thereto to be stayed, and may modify, alter or annul it.

371. The order passed by any Court under Order may take form of reference to Magistrate of District. section 369 or 370 may be in the form of a reference of the property to the Magistrate of the District, who shall in such cases deal with it as if the property had been seized by the Police and the seizure had been reported to him in the manner hereinbefore mentioned.

372. Every warrant for the commitment of a person to custody shall be in writing and signed and sealed by the Judge or Magistrate who issues it, and shall be directed to some jailor or other officer or person having authority to receive and keep prisoners, and shall be in the Form (C) given in the appendix to this Act or to the like effect.

373. The warrant of commitment shall be lodged with the jailor, if he be in the jail; and if he be not in the jail, with his deputy.

If the jailor has no deputy, the warrant may be lodged with any officer of the jail then being in the jail.

374. Subject to any rules that may be passed Expenses of complainant and witnesses. by the Local Government with the previous sanction of the Governor General of India in Council, the Criminal Courts may order payment on the part of Government of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

375. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be sworn in the manner provided for witnesses by any law for the time being in force, to interpret truly such evidence or statement, and he shall be bound to state the truth in his interpretation of such evidence or statement.

Interpreter to be sworn.

PART VIII. EXCEPTIONAL INCIDENTS.

CHAPTER I.—*Lunatics.*

376. When any person charged with an offence appears to the Magistrate having jurisdiction to be of unsound mind and incapable, in consequence, of making a defence, the Magistrate shall institute an inquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the Civil Surgeon of the District, or some other medical officer, and thereupon shall examine such Civil Surgeon or other medical officer, and shall reduce the examination into writing.

If the Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

377. When, from the evidence given before a Magistrate, there appears to be sufficient ground for believing that the accused person committed an act which, if he had been of sound mind, would have been an offence triable exclusively by the Court of Session, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act charged or that he was doing what was wrong or contrary to law, he shall be sent for trial by the Magistrate before the Court of Session :

If the Magistrate is a Justice of the Peace and the accused person is a European British subject, the Magistrate shall follow the procedure prescribed in the second paragraph of section 176.

378. If any person committed for trial before a Court of Session, shall at his trial appear to the Court to be of unsound mind and incapable of making his defence, the Court shall in the first instance, try the fact of such unsoundness of mind, and if satisfied of the fact, shall give a special judgment that the accused person is of unsound mind and incapable of making his defence, and thereupon the trial shall be postponed.

379. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court of Session, as the case may be, if the offence be bailable, may release such person on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required.

If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the Local Government to which the case shall be reported shall direct.

380. Whenever any investigation or trial of a case is postponed under section 376 or section 378, the Magistrate or Court of Session, as the case may be, may at any time resume the investigation or trial, and require the accused person, if detained in custody, to be brought before such Magistrate or

Court, or if the accused person has been released on security, may require his appearance.

Until such investigation or trial is completed, the case shall be considered as pending before the Magistrate or Court of Session, and shall be included in any register of pending cases kept by such Magistrate or Court.

The surety of such person shall be bound at any time to produce him to any officer whom the Magistrate or Court of Session appoints to inspect him, and the certificate of such officer shall have the same effect as the certificate of an Inspector General of Jails or the visitors of Lunatic Asylums, granted under section 384.

381. If, when the accused person appears or is again brought before the Magistrate or the Court of Session, as the case may be, it appears to such Magistrate or Court that the accused person is in a fit state of mind to make his defence, the investigation shall proceed, or the accused person shall be put on his trial, as the case may require.

If it appears that the accused person is still of unsound mind, and incapable of making his defence, the Magistrate or Court of Session shall again act according to the provisions of section 376 or section 378.

382. Whenever any person is acquitted upon the ground that, at the time at which he is charged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act charged or that he was doing what was wrong or contrary to law, the finding shall state specially whether he committed the act or not.

383. Whenever such finding states that the accused person committed the act charged, the Magistrate or Court of Session before whom the trial was held shall, if the act charged would, but for the incapacity found, have amounted to an offence, order such person to be kept in safe custody, in such place and manner as to the Magistrate or Court of Session seems fit, and shall report the case for the order of the Local Government.

The Local Government may order such person to be kept in safe custody in a Lunatic Asylum or other suitable place of safe custody.

384. *Clause 1.*—When any person is confined under the provisions of section 379 or section 383, the Inspector General of Jails, if such person is confined in a jail, or the visitors of the Lunatic Asylums or any two of them, if he is confined in a Lunatic Asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every three months by such Inspector General or by two of such visitors as aforesaid, who shall make a special report to the Local Government as to his state of mind.

Clause 2.—If such person is confined under section 379, and such Inspector General or visitors as aforesaid shall certify that, in his or their opinion, such

person is capable of making his defence, he shall be taken before the Magistrate or Court of Session, as the case may be, at such time as such Magistrate or Court of Session appoints; and such Magistrate or Court shall deal with such person under the provisions of section 381, and the certificate of such officer or visitors as aforesaid shall be receivable as evidence.

Clause 3.—If such person is confined under the provisions of section 383, and such Inspector General or visitors as aforesaid shall certify that in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government shall thereupon either order his discharge or order him to be transferred to a public Lunatic Asylum if he has not been already sent to such an Asylum, and shall appoint a commission, consisting of a judicial officer not below the grade of a Sessions Judge, and two medical officers, whereof the chief medical officer attached to the Lunatic Asylum shall be one.

The said commission shall make formal enquiry into the state of mind of such person, taking such evidence as is necessary; and if they consider that he can be set at liberty without danger to himself or to any other person, he shall be discharged.

385. Whenever it appears to the Local Government that any person imprisoned by the sentence of any Court or Magistrate is of unsound mind, the Local Government, by an order setting forth the grounds of belief that such prisoner is of unsound mind, may direct his removal to a Lunatic Asylum, there to be kept and treated as the Local Government directs during the remainder of the term of imprisonment ordered by the sentence: or if a medical officer certifies that it is necessary for the safety of the prisoner or others that he should be detained under care and treatment, then until he shall be discharged according to law.

When it appears to the Local Government that such person has become of sound mind, the Local Government, by an order directed to the person having charge of him, shall remand him to the custody from which he was removed, if then still liable to be kept in custody, or, if not, shall order him to be discharged out of custody.

The provisions of section IX of Act No. XXXVI of 1858 (*relating to Lunatic Asylums*) shall apply to persons confined in a Lunatic Asylum under this section after the expiration of the imprisonment ordered by the sentence.

The time during which a person is confined in a Lunatic Asylum shall be reckoned as part of the term of imprisonment ordered by the sentence.

386. Whenever any relative or friend of any person detained under the provisions of section 383 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any

other person, may make an order that the person so detained may be delivered to such relative or friend.

Whenever such person is so delivered over, it shall be upon condition that he shall be subject to the inspection of such officer as the Local Government thinks necessary to appoint, and at such times as such Government directs.

The provisions of section 384 shall apply to persons detained under the provisions of this section, and the certificate of the inspecting officer appointed under this section shall have the same effect as a certificate of the officer in charge of the jail, or the Visitors of Lunatic Asylums under the said section.

CHAPTER II.—Contempts.

387. When any such offence as is described in section 175, 178, 179, 180 or 228 of the Indian Penal Code, is committed in the view or presence of any Civil, Criminal, or Revenue Court, the Court may cause the offender, whether he be a European British subject or not, to be detained in custody; and, at any time before the rising of the Court on the same day, may take cognizance of the offence; and adjudge the offender to punishment by fine not exceeding two hundred rupees, or by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence.

If the Court, in any case, considers that a person accused of any offence above referred to should be imprisoned, or that a fine exceeding two hundred rupees should be imposed upon him, such Court, after recording the facts constituting the contempt, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Justice of the Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate or Justice of the Peace, or, if sufficient bail be not tendered, shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace.

If the case be forwarded to a Magistrate, he shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate, and such Magistrate may adjudge the offender to punishment, as provided in the section of the Indian Penal Code under which he is charged.

If the case be forwarded to a Justice of the Peace, he shall enquire into the circumstances, and shall have the same powers of punishing the offender as are vested by section 47 in a Justice of the Peace, and may deal with the offender in the same manner as is provided in that behalf in the said section.

If such Justice of the Peace considers the offence to require a more severe punishment than he is competent to award under the said section, he may commit the offender to the High Court.

In no case tried under this section shall any Magistrate adjudge imprisonment or a fine exceeding two hundred rupees for any contempt committed in his own presence against his own Court.

388. When any Court has adjudged an offender to punishment, or forwarded him to a Magistrate or Justice of the Peace for trial for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

389. When any such offence as is described in chapter X of the Indian Penal Code, except sections 175, 178, 179 and 180, is committed in contempt of the lawful authority of any Civil, Criminal, or Revenue Court, by a European British subject, such offence shall be cognizable only by a Magistrate who is a Justice of the Peace, and such Magistrate shall have the same powers of punishment for such offence as are vested by section 47 in a Justice of the Peace, and may deal with the offender on conviction in the same manner as is provided in that behalf in the same section.

If such Magistrate considers the offence to require a more severe punishment than a Justice of the Peace is competent to award under the same section, he may commit the offender to the High Court.

PART IX.

PLEADING IN CRIMINAL CASES.

CHAPTER I.—Of the Charge.

390. The charge shall describe the imputed offence as nearly as possible in the language of the Indian Penal Code, and shall refer to the section under which such offence is punishable.

391. Every charge shall be understood to assume, and no charge shall allege, the absence of circumstances showing that the case does not come within any of the general exceptions contained in chapter IV of the Indian Penal Code.

392. The burden of proving the existence of such circumstances shall be upon the person accused.

393. When the section referred to in the charge contains an exception not being one of such General Exceptions, the charge shall not be understood to assume the absence of circumstances constituting such exception so contained in the section, without a distinct denial of the existence of such circumstances.

394. The charge may contain one or more heads.

395. When a charge contains one head only, the form shall be as follows, or to the same effect:

(a.) I, A [name and office of Magistrate, &c.,] declare that there is hereby made against Z the charge—

(b.) That he, on or about the day of at , waged war against the Queen, and

that he has thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session.

(d.) And I hereby direct that Z be tried by the said Court on the said charge.

[Signature and Seal of the Magistrate.]

To be substituted for (b),

(2.) That he, on or about the day of at , with the intention of inducing the Honourable A. B., a Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session.

(3.) That he, being a public servant in the Department, directly accepted from [state the name] for another party [state the name] a gratification, other than legal remuneration, as a motive for his, the said Z's forbearing to do an official act, and that he has thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session.

(4.) That he, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and that he has thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

(5.) That he, on or about the day of at , abetted the commission of suicide by A. B., a person in a state of intoxication, and that he has thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session.

(6.) That he, on or about the day of at , voluntarily caused grievous hurt to , and that he has thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session.

(7.) That he, on or about the day of at , committed robbery, and that he has thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session.

(8.) That he, on or about the day of at , committed dacoity, and that he has thereby committed an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session.

And the same form shall be followed, as nearly as may be, in charges with one head only, under other sections of the Indian Penal Code.

396. When it appears to the Magistrate that the facts which can be established in evidence show a case falling within two or more sections of the Indian Penal Code, the charge shall contain two or more heads, each of which shall be applicable to one of such sections.

397. When it appears to the Magistrate that the facts which can be established in evidence show the commission of two or more offences falling within the same section of the Indian Penal Code, the charge shall contain two or more heads charging such offences respectively.

398. When it appears to the Magistrate that the facts which can be established in evidence show a case falling within some one of two or more sections of the Indian Penal Code, but it is doubtful which of such sections will be applicable,

or show the commission of one of two or more offences falling within the same section of the said Code, but it is doubtful which of such offences will be proved,

the charge shall contain two or more heads, framed respectively under each of such sections, or charging respectively each of such offences accordingly.

399. When a charge contains more heads than one, the form shall be as follows, or to the same effect :—

I, A [name and office of Magistrate or other officer as aforesaid, &c.,] declare that there is hereby made against Z the charge—

First.—That he, on or about the day of at , knowing a coin to be counterfeit, delivered the same to another person, by name A. B., as genuine, and that he has thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That he, on or about the day of at , knowing a coin to be counterfeit, attempted to induce another person, by name A. B., to receive it as genuine, and that he has thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the Court of Session.

And I hereby direct that Z be tried by the said Court on the said charge.

[Signature and Seal of the Magistrate.]

First.—That he, on or about the day of at , committed murder by causing the death of , and that he has thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That he, on or about the day of at , by causing the death of , committed culpable homicide, and that he has thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

First.—That he, on or about the day of at , committed theft, and that he has thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That he, on or about the day of at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and that he has

thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Thirdly.—That he, on or about the day of at , committed theft, having made preparation for causing restraint to a person in order to the effecting of his escape after the committing of such theft, and that he has thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Fourthly.—That he, on or about the day of at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and that he has thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

And the same form shall be followed, as nearly as may be, in charges with more heads than one, under other sections of the Indian Penal Code.

400. Any Court before which a trial is held may, at any stage of the trial, amend or alter the charge.

401. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making the amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

402. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable him to make his defence to the amended or altered charge; and, after hearing his defence, may further adjourn the trial, to admit of the appearance of any witness, whose evidence the Court may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

403. In all cases of amendment or alteration of a charge, the accused person shall be allowed to recall and examine any witness who may have been examined.

404. A person who has once been tried for an offence and convicted or acquitted not to be tried for same offence, shall not be liable to be tried again for the same offence:

Provided that any person may be tried for the offence of culpable homicide and punished for that offence, notwithstanding he may have been tried and punished for the act which caused the death, if at the time of his conviction for the said act death has not resulted, or has not been known by the Court which passed sentence to have resulted.

405. If upon the trial of any person charged with the offence of criminal breach of trust under section 405 of the Indian Penal Code,

Person charged with criminal breach of trust may be found guilty of theft.

or of criminal breach of trust as a carrier, wharfinger or warehouse-keeper under section 407 of the said Code,

it is proved that such person took the property in question in any such manner as to amount to the offence of theft under section 378 of the said Code,

he shall not be entitled to be acquitted.

But the Court, or the jury in a case tried by jury, may find that such person is not guilty of the offence charged, but is guilty of the said offence under the said section 378.

Thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under the said section 378.

406. If upon the trial of any person charged

Person charged with criminal breach of trust as a servant may be found guilty of theft, or of theft as a servant.

with the offence of criminal breach of trust as a clerk or servant under section 408 of the Indian Penal Code, it is proved that he took the

property in question in any such manner as to amount to

the offence of theft under section 378 of the said Code,

or the offence of theft as a clerk or servant of property in possession of his master under section 381 of the said Code,

he shall not be entitled to be acquitted, but the Court, or the jury in a case tried by jury, may find that he is not guilty of the offence charged, but is guilty of the said offence under the said section 378, or section 381, as the case may be.

Thereupon he shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such section.

407. If upon the trial of any person charged

Person charged with theft may be found guilty of misappropriation or breach of trust.

with the offence of theft under section 378 of the Indian Penal Code, or the offence of theft in a building, tent or vessel under section 380 of the said Code, it is proved that he took the property in question in any such manner as to amount to

the offence of dishonest misappropriation of property under section 403 of the said Code,

or the offence of criminal breach of trust under section 405 of the said Code,

he shall not be entitled to be acquitted, but the Court, or the jury in a case tried by jury, may find that he is not guilty of the offence charged, but is guilty of the said offence under the said section 403, or section 405, as the case may be.

Thereupon he shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such section.

408. If upon the trial of any person charged

Person charged with theft as a servant may be found guilty of misappropriation or breach of trust.

with the offence of theft as a clerk or servant of property in the possession of his master, under section 381 of the Indian Penal Code, it is proved that he took the property in question in any such manner as to amount to any of the following offences:—

dishonest misappropriation of property under section 403 of the said Code,

dishonest misappropriation of property possessed by a deceased person at the time of his death under section 404 of the said Code,

such dishonest misappropriation under the said section 404, the offender being at the time of the person's decease employed by him as a clerk or servant,

criminal breach of trust under section 405 of the said Code,

criminal breach of trust as a clerk or servant under section 408 of the said Code,

he shall not be entitled to be acquitted, but the Court, or the jury in a case tried by jury, may find that he is not guilty of the offence charged, but is guilty of the offence under the said section 403, section 404, section 405 or section 408, as the case may be.

Thereupon he shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such section.

409. No person charged and tried for an

No person convicted under the last four sections to be charged on same facts.

offence under any section of the Indian Penal Code in the last four sections mentioned, and found guilty of another offence under the provisions of any other of the said sections of the Indian Penal Code, shall be liable to be afterwards prosecuted upon the same facts under the section under which he was charged, or under the section under which he was found guilty.

410. In trials before a Court of Session,

Withdrawal of remaining charges on conviction on one of several charges.

when more charges than one are preferred against the same person, and when a conviction has been had on one or more of them, the Government Pleader or other officer conducting the prosecution may, with the consent of the Court, withdraw, or the Court of its own accord may suspend, the enquiry into the remaining charge or charges.

CHAPTER II.—Of the Finding, Judgment and Sentence.

411. When the trial in any Criminal Court is

Judgment to specify offence.

concluded, the Court, in passing judgment, if the accused person be convicted, shall distinctly specify the offence of which, and the section of the Indian Penal Code under which, he is convicted;

or if it be doubtful under which of two sections the offence falls, shall distinctly express the same, and pass judgment in the alternative, according to section 72 of the said Code.

Judgment in the alternative.

412. The finding and sentence shall be recorded in one of the following forms, or to the same effect:—

In trials by Jury:—

(A.)—When the jury are unanimous:

The jury are unanimous in finding that Z is guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under section 121 of the Indian Penal Code; and the Court directs that the said Z be [sentence.]

2nd.—The jury are unanimous in finding that Z is not guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under section 121 of the Indian Penal Code; and the Court directs that the said Z be discharged.

(B).—When the jury are not unanimous, but such a majority as is required by section 217 concur in finding the accused guilty:

3rd.—A majority (stating the number, consisting of four out of five, or five or six out of seven, or six, seven, or eight out of nine, as the case may be) find that Z is guilty of the offence specified in the charge, namely, that Z has, with the intention of inducing the Honourable A. B., a Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under section 124 of the Indian Penal Code. The Court directs that the said Z be [sentence.]

(C).—When the jury are not unanimous, but such a majority as is required by section 217 concur in finding the accused not guilty:

4th.—A majority of the jury (stating the number, as above) find that Z is not guilty of the offence specified in the charge, namely, that Z has, with the intention of inducing the Honourable A. B., a Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under section 124 of the Indian Penal Code. The Court directs that the said Z be discharged.

(D).—When the jury, or such a majority as is required by section 217, concur in finding the accused guilty of an offence, but are doubtful under which of two heads of a charge the offence falls:

5th.—The jury, or a majority of the jury (stating the number, as above) find that Z is guilty, either of the offence specified in the first head of the charge, or of the offence specified in the second head of the charge, namely, that Z has either committed theft, and has thereby committed an offence punishable under section 379 of the Indian Penal Code, or that he has committed criminal breach of trust, and has thereby committed an offence punishable under section 406 of the said Code. The Court directs that, under the provisions of the above-mentioned sections, and the provisions of section 72 of the Indian Penal Code, the said Z be [sentence.]

(E).—When a majority less than the number required by section 217 find the accused guilty:

6th.—A majority of not less than two-thirds of the jury (stating the number, as above) with the concurrence of the Judge, find that Z is guilty of the offence specified in the charge, namely, that he has committed, &c., &c. The Court directs that the jury be discharged, and that there be a new trial.

A similar form shall be followed if a verdict of not guilty is found by a majority less than is required by section 217.

(F).—In trials with Assessors:

7th.—The Court, concurring with the assessors (or one or more of the assessors), finds that Z is guilty of the offence specified in the charge,

namely, that Z has committed the offence of rioting, and has thereby committed an offence punishable under section 147 of the Indian Penal Code; and the Court directs that the said Z be [sentence.]

8th.—The Court, differing from the assessors, finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting, and has thereby committed an offence punishable under section 147 of the Indian Penal Code; and the Court directs that the said Z be discharged.

9th.—The Court, concurring with one of the assessors, finds that Z is guilty either of the offence specified in the first head of charge, or of the offence specified in the second head of charge, namely, that Z has either committed theft, and has thereby committed an offence punishable under section 379 of the Indian Penal Code, or that he has committed criminal breach of trust, and has thereby committed an offence punishable under section 406 of the Indian Penal Code; and the Court directs that, under the provisions of the above-mentioned sections, and the provisions of section 72 of the Indian Penal Code, the said Z be [sentence.]

In trials upon a formal charge, without jury or the aid of assessors:

10th.—The Court finds that Z is guilty of the offence specified in the charge, namely, that Z has committed theft, and has thereby committed an offence punishable under section 379 of the Indian Penal Code; and the Court directs that the said Z be [sentence.]

11th.—The Court finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed theft, and has thereby committed an offence punishable under section 379 of the Indian Penal Code; and the Court directs that the said Z be discharged.

In trials in which no formal charge has been prepared:

12th.—The Court finds that Z has used criminal force, and has thereby committed an offence punishable under section 353 of the Indian Penal Code, and directs that the said Z be [sentence.]

13th.—The Court finds that the complaint of assault is not proved, acquits Z, and directs that he be discharged.

413. Every sentence or final order of a Criminal Court, together with the

Language of sentence. reasons for making or passing the same, shall be written in the vernacular language of the presiding officer, and shall be dated and signed by such officer at the time of his making or passing the same.

The original shall be filed with the record of proceedings, and a translation thereof, where the original is recorded in a different language from that in ordinary use in proceedings before such officer, shall be incorporated in the record of the sentence or order.

414. If the vernacular language of the presiding officer is not English, and he is sufficiently conversant with the English language to be able to write the sentence or final order in a clear and intelligible manner in that language, and prefers to write the same in that

When sentence may be written in English.

language, the sentence or final order may be written in English.

CHAPTER III.—*Prosecutions in certain Cases.*

415. A charge of an offence punishable under chapter VI of the Indian Penal Code, except section 127, shall not be entertained by any Court, unless the prosecution be instituted by order of, or under authority from, the Governor General of India in Council, or the Local Government, or some officer empowered by the Governor General in Council to order or authorize such prosecution, or unless instituted by the Advocate General.

416. A charge of an offence punishable under chapter IX of the Indian Penal Code, of which any Judge or any public servant not removeable from his office without the sanction of the Government, is accused as such Judge or public servant, shall not be entertained against such Judge or public servant, except with the sanction or under the direction of the Local Government, or of some officer empowered by the Local Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such prosecution the Local Government shall not think fit to limit or reserve.

417. A charge of any offence described in chapter X of the Indian Penal Code, not falling within section 163, shall not be entertained in any Criminal Court, except with the sanction or on the complaint of the public servant concerned, or of his official superior.

The prohibition contained in this section shall not apply to the offences described in sections 189 and 190 of the Indian Penal Code.

418. A charge of an offence against public justice, described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Indian Penal Code, when such offence is committed before or against a Civil or Criminal Court, shall not be entertained in the Criminal Courts, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

Such sanction may be given at any time.

419. A charge of an offence relating to documents described in section 463, 471, 475 or 476 of the Indian Penal Code, when the document has been given in evidence in any proceedings in any Court of Justice, shall not be entertained against a party to such proceedings, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

Such sanction may be given at any time.

420. When any Court, Civil or Criminal, is of opinion that there is sufficient ground for investigating any charge mentioned in the last three preceding

sections, the Court, after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having power to try or commit for trial the accused person for the offence charged.

Such Magistrate shall thereupon proceed according to law, and the Court may send the accused person in custody or take sufficient bail for his appearance before such Magistrate, and may bind over any person to appear and give evidence on such investigation.

421. A Court of Session may charge a person for any such offence committed before it or under its own cognizance if the offence be triable by the Court of Session exclusively, and may commit or hold to bail and try him upon its own charge.

In such case the Court of Session shall have the same power of summoning and causing the attendance at the trial of any witnesses for the prosecution or for the defence as is vested in a Magistrate by this Act.

Such Court may direct the Magistrate to cause the attendance of such witnesses on the trial.

422. In any case triable by the Court of Session exclusively, any Civil Court before which any such offence was committed may, instead of sending the case for investigation to a Magistrate, complete the investigation itself, and commit or hold to bail the accused person to take his trial before the Court of Session.

For the purposes of investigation under this section, the Civil Court may exercise all the powers of a Magistrate.

423. When any such commitment is made by order of a Civil Court, the Court shall frame a charge in the manner hereinafter provided, and shall send the same with the order of commitment and the record of the case to the Magistrate of the District or other officer exercising any of the powers of a Magistrate, and such Magistrate or other officer as aforesaid shall bring the case before the Court of Session, together with the witnesses for the prosecution and defence.

424. Whenever any Court of Justice commits or holds to bail any person for trial under the last three preceding sections, it may also bind over any person to give evidence, and for that purpose may exercise all the powers of a Magistrate.

425. If any such offence, triable by the Court of Session exclusively, be committed before a Magistrate not empowered to commit for trial before a Court of Session, he shall send the case to a Magistrate competent to make such commitment, who shall proceed to pass such order in the case as he thinks fit.

426. A charge of an offence under section 497 of the Indian Penal Code shall not be instituted, except by the husband of the woman.

427. A charge of an offence under section 498 of the Indian Penal Code shall not be instituted, except by the husband of the woman or by the person having care of such woman on behalf of her husband.

Prosecution for enticing away a married woman.

PART X.

PREVENTIVE JURISDICTION OF MAGISTRATES.

CHAPTER I.—Of Security for keeping the Peace.

428. Whenever a person charged with rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such charge before any Court of Session or the Magistrate of the District or a Magistrate in charge of a division of a District or other officer exercising the powers of a Magistrate,

Personal recognizance to keep the peace in cases of conviction.

and the Court or Magistrate or other officer as aforesaid by which or by whom the accused person is convicted, or the Court or Magistrate or other officer as aforesaid by which or by whom the final sentence or order in the case is passed, is of opinion that it is just and necessary to require a personal recognizance for keeping the peace from the person so convicted,

the Court or Magistrate or other officer as aforesaid so convicting the accused person, or so passing the final sentence or order as aforesaid, may, in addition, direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year if the sentence or order be passed by a Magistrate, or three years if the sentence or final order be passed by a Court of Session :

If the accused person be sentenced to imprisonment, the period for which he may be required to execute a recognizance shall commence when he is released.

When any accused person is convicted of any offence specified in this section by an officer not exercising the powers of a Magistrate, such officer, if he consider it just and necessary to require a personal recognizance for keeping the peace from the person so convicted, shall report the case to the Magistrate of the District, or other officer exercising the powers of a Magistrate to whom such officer is subordinate, who shall deal with the case as if the conviction had been before himself.

Where convicting officer has not powers of Magistrate.

429. Whenever it appears necessary to require security to keep the peace, in addition to the personal recognizance of the party so convicted, the Court or Magistrate or other officer as aforesaid, empowered to require a personal recognizance, may require security in addition thereto and fix the amount of the security-bond to be

executed by the surety or sureties; with a provision that, if the same be not given, the party required to find the security shall be kept in custody for any time not exceeding one year if the order be passed by the Magistrate of the District or other officer exercising the powers of a Magistrate, or three years if the order be passed by the High Court or by a Court of Session.

430. The Magistrate of the District or other officer exercising the powers of a Magistrate, whenever he receives credible information that any person, whether a European British subject or not, is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, may summon him to attend at a time and place mentioned in the summons, to show cause why he should not be required to enter into a bond to keep the peace with or without sureties as such Magistrate thinks fit.

Summons to any person to show cause why he should not give bond to keep peace.

431. The summons shall set forth the substance of the information, the amount of the bond, and the term for which it is to be in force, and, if security is called for, the number of sureties required, and the amount in which they are to be bound respectively.

Form of summons.

Such summons shall be served in the manner provided by this Act for the service of a summons on an accused person.

432. The bond shall be in the Form (D) given in the appendix or to the like effect, and its penalty shall be fixed with a due regard to the circumstances of the case and the means of the party.

Penalty of bond.

The amount in which the sureties shall be bound shall not exceed the penalty.

433. If the person summoned does not attend on the day appointed, the Magistrate or other officer as aforesaid, if satisfied that the summons has been duly served, may issue a warrant for his arrest :

Warrant of arrest.

Provided that, whenever it appears to the Magistrate or other officer as aforesaid, upon the report of a Police officer or upon other credible information (the substance of which report or information shall be recorded), that there is just reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, the Magistrate or other officer may at any time issue a warrant for his arrest.

434. The Magistrate or other officer as aforesaid may, if he see sufficient cause, dispense with the personal attendance of the person informed against and permit him to appear and enter into the required security, or show cause against such requisition, by an agent duly authorized to act in his behalf.

Magistrate may dispense with personal attendance of person informed against.

435. If on the appearance of the person informed against, or of his agent, if he is permitted to appear by agent, the Magistrate or other officer as aforesaid is not satisfied that there is occasion to bind such person to keep the peace, the Magistrate or other officer as aforesaid shall direct his discharge.

Discharge of person informed against.

436. If the Magistrate or other officer as aforesaid is satisfied that it is necessary for the preservation of the peace to take a bond from such person with or without security, he shall make an order accordingly; and if the person fails to comply with the order, the Magistrate or other officer as aforesaid may commit him to jail.

437. The period for which the Magistrate or other officer as aforesaid may bind a person to keep the peace with or without security, shall not exceed one year.

When a person is committed to jail under section 436, he shall not be detained by authority of the Magistrate or other officer as aforesaid beyond the term of one year, and shall be released whenever within that term he complies with the order.

438. Whenever it appears to the Magistrate or other officer as aforesaid that it is necessary for the preservation of the peace to bind a person beyond the term of one year, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the Court of Session.

Such Court, after examining the proceedings of the Magistrate or other officer as aforesaid and making such further enquiry as it thinks necessary, may, if it see cause, authorize the Magistrate or other officer as aforesaid to extend the term for a further period not exceeding one year.

If the person fails to give a bond, with security if required, for his keeping the peace for such further period as the Magistrate or other officer as aforesaid directs under the orders of the Court of Session, he may be kept in confinement for such further period or until within that period he gives such bond.

439. The Magistrate or other officer as aforesaid may, if he see sufficient cause, discharge any recognizance and surety for keeping the peace taken under the preceding sections, and may order the release of the person confined for default in entering into such recognizance or giving such security.

440. A surety for the personal appearance of another person may at any time apply to the Magistrate or other officer as aforesaid, to be relieved from his engagement as surety.

On such application being made, the Magistrate shall issue his summons or warrant in order that the person for whom such surety is bound may appear or be brought before him.

On the appearance of the person to such warrant or on his voluntary surrender, the Magistrate or other officer as aforesaid shall direct the engagement of the surety to be cancelled, and shall call upon such person to give fresh security, and in default thereof shall commit him to custody.

441. Whenever it is proved before the Magistrate or other officer as aforesaid that any recognizance or other bond taken under this chapter has been forfeited, he shall record the

grounds of such proof, and shall call upon the person bound by the bond to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause be not shown and the penalty be not paid, the Magistrate or other officer as aforesaid shall proceed to recover the same by the attachment and sale of any of the moveable property belonging to the person bound thereby which is found within the jurisdiction of the Magistrate of the District.

If the penalty be not paid and cannot be recovered by such attachment and sale, the party shall be liable to imprisonment by order of the Magistrate or other officer as aforesaid in the civil jail for a period not exceeding six months.

442. Whenever it is proved before the Magistrate or other officer as aforesaid that any bond with a surety has been forfeited, the Magistrate or other officer as aforesaid may at his discretion give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

If no sufficient cause is shown, and the penalty is not paid, the Magistrate or other officer as aforesaid may proceed to recover payment of the penalty from such surety in the same manner as from the principal party.

CHAPTER II.—Of Security for Good Behaviour.

443. Whenever it appears to the Magistrate of the District or to an officer exercising the powers of a Magistrate that any person is lurking within his jurisdiction not having any ostensible means of subsistence, or who cannot give a satisfactory account of himself, such Magistrate or other officer as aforesaid may require security for his good behaviour for a period not exceeding six months.

444. Whenever it appears to such Magistrate or other officer as aforesaid, from the evidence as to general character adduced before him, that any person is by repute a robber, house-breaker, or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood,

such Magistrate or other officer as aforesaid may require security for his good behaviour for a period not exceeding one year.

445. Whenever it appears to such Magistrate or other officer as aforesaid, from the evidence as to general character adduced before him, that any person is by habit a robber, house-breaker, or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of a character so desperate and dangerous as to render his release, without security, at the expiration of the limited period of one year, hazardous to the community,

the Magistrate or other officer as aforesaid shall record his opinion to that effect, with an order specifying the amount of security which should, in his judgment, be required from such person, as well as the number of sureties, and the period, not exceeding three years, for which the sureties should be responsible for such person's good behaviour.

446. If the person so required to furnish security, does not furnish the same, the proceedings shall be laid, as soon as conveniently may be, before the Court of Session.

Proceedings to be laid before Court of Session. Such Court, after examining them and requiring any further information or evidence which it judges necessary, may pass orders on the case, either confirming, modifying or annulling the orders of the Magistrate or other officer as aforesaid as it judges proper.

447. If the Court of Session does not think it safe to direct the immediate discharge of such person, it shall fix a limited period for his detention, not exceeding three years, in the event of his not giving the security required from him.

448. Whenever security for good behaviour is required by the Court of Session or the Magistrate or other officer as aforesaid, the amount of the security, the number of sureties, and the period of time for which the sureties are to be responsible for the good conduct of the person required to furnish security, shall be stated in the order.

Contents of order for security. The security-bond shall be in the Form (F) given in the appendix, or to the like effect.

449. In the event of any person required to give security under the provisions of the foregoing sections, failing to furnish the security so required, he shall be committed to prison until he furnish the same.

Imprisonment in default of security. Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Term of imprisonment. Imprisonment under this section may be rigorous or simple, as the Court of Session in each case directs.

450. The Magistrate of the District or other officer exercising the powers of a Magistrate is empowered, at any time, to exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, whether by his own order or by the order of any officer subordinate to him, provided he is of opinion that such person can be released without hazard to the community.

451. Whenever a Magistrate or other officer as aforesaid is of opinion that any person confined under requisition of security for good behaviour by order of

Report in case of prisoner under requisition of security by order of Court of Session.

a Court of Session, can be safely released without such security, the Magistrate or other officer as aforesaid shall make an immediate report of the case for the orders of the Court which shall have required the person to furnish the security.

452. A surety for the good behaviour of a person may at any time apply to the Magistrate or other officer as aforesaid to be relieved from his engagement as surety.

Discharge of surety. On such application being made, the Magistrate or other officer as aforesaid shall issue his summons or warrant in order that such person may appear or be brought before him.

On the appearance of such person pursuant to the warrant or on his voluntary surrender, the Magistrate or other officer as aforesaid shall direct the engagement of the surety to be cancelled, and shall call upon the person so appearing or surrendering to give fresh security, and, in default thereof, shall commit him to custody.

453. Whenever the Magistrate or other officer as aforesaid is of opinion that, by reason of an offence proved to have been committed by the person for whose good behaviour security has been given, subsequent to his having given such security, proceedings should be had upon the bond executed by the surety, he shall give notice to the surety to pay the penalty, or to show cause why it should not be paid.

Recovery of penalty from sureties. If no sufficient cause be shown, the Magistrate or other officer as aforesaid shall proceed to recover the penalty from such surety by the attachment and sale of any moveable property belonging to him which may be found within the jurisdiction of the Magistrate of the District.

If the penalty be not paid, and cannot be recovered by such attachment and sale, the surety shall be liable to imprisonment by order of the Magistrate or other officer as aforesaid in the civil jail, for a period not exceeding six months.

454. The provisions of sections 431 and 433 relating to the issue of summons and warrant of arrest for securing the personal attendance of the party informed against, shall apply to proceedings taken under this chapter against persons required to give security for their good behaviour.

455. Any evidence taken under Part X, chapter I or this chapter, shall be taken as in cases usually heard by a Magistrate upon summons.

Manner of taking evidence under Part X, chapter I or this chapter.

CHAPTER III.—*Local Nuisances.*

456. Any Magistrate, by a written order, may direct any person to abstain from a certain act, or to take certain order with certain property in his possession, or under his management, whenever such

Magistrate may issue orders to prevent obstructions, danger to human life, or riots.

Magistrate considers that such direction is likely to prevent, or tends to prevent,

obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed,

or danger to human life, health, or safety, or a riot or an affray.

457. Any Magistrate may enjoin any person

Magistrate may prohibit repetition or continuance of public nuisances.

not to repeat or continue a public nuisance as defined in section 268 of the Indian Penal Code.

No appeal shall lie from an order made under this section.

458. Whenever the Magistrate of a District

Magistrate may order removal of nuisances.

or of a division of a District, considers that any unlawful obstruction or nuisance

should be removed from any thoroughfare or public place,

or that any trade or occupation, by reason of its being injurious to the health or comfort of the community, should be suppressed or should be removed to a different place,

or that the construction of any building or the disposal of any combustible substance, as likely to occasion conflagration, should be prevented,

or that any building is in such a state of weakness that it is likely to fall, and thereby cause injury to persons passing by, and that its removal in consequence is necessary,

or that any tank or well adjacent to any public thoroughfare should be fenced in such a manner as to prevent danger arising to the public—

he may issue an order to the person causing such obstruction or nuisance, or carrying on such trade or occupation, or being the owner or in possession of, or having control over, such building, substance, tank, or well as aforesaid, calling on him, within a time to be fixed in the order,

to remove such obstruction or nuisance,

or to suppress or remove such trade or occupation,

or to stop the construction of such building,

or to remove it,

or to alter the disposal of such substance,

or to fence such tank or well (as the case may be),

or to appear before himself or some other officer exercising the powers of a Magistrate or of a Subordinate Magistrate of the First Class within the time mentioned in the order, and show cause why such order should not be enforced.

459. Such order shall, if practicable, be served

Service or notification of order.

personally on the person to whom it is issued.

But if personal service is found to be impracticable, the order shall be notified by proclamation, and a written notice thereof shall be stuck up at such place or places as may be best adapted for conveying the information to such person.

460. The person to whom such order is issued

Person ordered shall obey, or may claim a jury.

shall be bound, within the time specified in the order, to obey the same or to appear before the Magistrate before whom he was

required by the order to appear to show cause as aforesaid, or he may apply to such Magistrate for an order for a jury to be appointed to try whether the order is reasonable and proper.

On receiving such application, the Magistrate shall forthwith appoint a Constitution of jury. jury consisting of an odd number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant.

The execution of the order shall be suspended pending such enquiry, and the Magistrate who issued the order shall be guided by the decision of the jury, which shall be according to the opinion of the majority.

If the applicant, by neglect or otherwise, prevents the appointment of a Procedure in case of non-appointment of or neglect by jury. jury, or if from any cause the jury so appointed does

not decide and report within a reasonable time to be fixed in the order for the appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the Magistrate.

If from any of the above causes no decision be made by the jury, the order of the Magistrate may be carried into effect as hereinafter provided.

461. If the person to whom the order mentioned in section 458 is issued does not obey such order,

or show cause against the same as hereinafter provided,

or apply for a jury within the time specified in such order,

he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code;

and the Magistrate who issued such order may proceed to carry it into execution at the expense of such person, and may realize such expenses, either by the sale of any building, goods, or other property removed by his order, or by the distress and sale of the moveable property of the person aforesaid.

No suit shall lie in respect of anything necessarily or reasonably done to give effect to such order.

462. If in a case referred to a jury, the jury

Procedure where jury finds Magistrate's order to be reasonable.

find that the order of the Magistrate is reasonable and proper, the Magistrate who issued the order shall give notice of such finding to the person to whom the order was issued, and shall add to such notice an order to obey the order first mentioned within a time to be fixed in the notice and an intimation that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code.

If such latter order is not obeyed, the Magistrate may proceed as in section 461.

463. If the person to whom the order of the

Procedure where person ordered satisfies Magistrate that order is not reasonable.

Magistrate is issued appears and shows cause against it, so as to satisfy the Magistrate who issued it that it is not reasonable and proper, no further proceedings shall be taken in the case.

464. If, pending the enquiry by a jury, the Magistrate who issued the order considers that immediate measures are necessary to be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person mentioned in that behalf in section 458, as is required to obviate or prevent such danger or injury.

In default of such person forthwith taking all necessary measures ordered to be taken by such injunction, the Magistrate may himself use or cause to be used such means as may be necessary to obviate such danger or to prevent such injury.

No suit shall lie in respect of anything necessarily or reasonably done for that purpose.

465. Nothing in this chapter shall interfere with the provisions of section XLVIII of Act No. XXIV of 1859 (*for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*), or of section XXXIV of Act No. V of 1861 (*for the regulation of Police*), or of section XVI of Act No. VIII of 1867 of the Governor of Bombay in Council.

CHAPTER IV.—Possession.

466. Whenever the Magistrate of the District or other officer exercising the powers of a Magistrate is satisfied that a dispute, likely to induce a breach of the peace, exists concerning any land, houses, water, fisheries, crops or other produce of land, within the limits of his jurisdiction, he shall record a proceeding stating the grounds of his being so satisfied, and shall call on all parties concerned in such dispute to attend his Court in person, or by agent, within a time to be fixed by the Magistrate or other officer as aforesaid, and to give in a written statement of their respective claims, as respects the fact of actual possession of the subject of dispute.

The Magistrate or other officer as aforesaid shall, without reference to the merits of the claims of any party to a right of possession, proceed to enquire and decide which party is in possession of the subject of dispute, or if the parties are in joint possession, what is the share of which each party is in possession.

After satisfying himself upon that point, he shall issue an order declaring the party or parties to be entitled to retain possession until ousted by due course of law, and forbidding all disturbance of possession until such time.

467. If the Magistrate or other officer as aforesaid decides that neither of the parties is in possession, or is unable to satisfy himself as to which person is in possession, of the subject of dispute, he may attach it until a competent civil Court shall have determined the rights of the parties or who ought to be in possession.

468. If a dispute arise concerning the right of use of any land or water, the Magistrate or other officer as aforesaid within whose jurisdiction the subject of dispute lies, may enquire into the matter; and if it appear to him that the subject of dispute is open to the use of the public, or of any person or of any class of persons, the Magistrate or other officer may order that possession thereof shall not be taken or retained by any one to the exclusion of the public, or of such person, or of such class of persons, as the case may be, until the person claiming such possession shall obtain the decision of a competent Court adjudging him to be entitled to such exclusive possession.

Provided that the Magistrate or other officer as aforesaid, shall not pass any such order if the matter be such that the right of use is capable of being exercised at all times of the year, unless that right has been ordinarily exercised within three months from the date of the institution of the enquiry, or, in cases where the right of use exists at particular seasons, unless such right has been exercised during the last of such seasons before the complaint.

469. Whenever a local enquiry is necessary to determine a boundary dispute or a contested right of possession, any officer exercising the full powers of a Magistrate, may depute any Assistant or other officer subordinate to him to make the enquiry, and may furnish him with such instructions, consistent with the law for the time being in force, as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the enquiry shall be paid.

470. Nothing in this chapter shall affect the powers of a Collector or a person exercising the powers of a Collector or of a Revenue Court.

CHAPTER V.—Of the Maintenance of Wives and Families.

471. If any person having sufficient means neglects or refuses to maintain his wife or legitimate or illegitimate child unable to maintain himself, the Magistrate of the District or other officer exercising the powers of a Magistrate may, upon due proof thereof, order him to make a monthly allowance for the maintenance of his wife or such child at such monthly rate, not exceeding fifty rupees in the whole, as to the Magistrate or other officer as aforesaid seems reasonable.

If such person wilfully neglects to comply with this order, the Magistrate or other officer as aforesaid may, for every breach of the order, by warrant, direct the amount due to be levied in the manner provided for levying fines; or may order him to be imprisoned with or without hard labour for any term not exceeding one month:

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, the Magistrate or other officer as aforesaid may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband.

472. On the application of any person ordered to pay a monthly allowance under the provisions of section 471, and on proof of a change in the circumstances of such person, his wife, or child, the Magistrate may make such alteration in the allowance ordered as he deems fit.

PART XI.

MISCELLANEOUS PROVISIONS.

Miscellaneous.

473. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which, after this Act comes into force, are instituted in any Court.

474. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure of the Commissioner of Police, the Police Magistrates, or the Police of the Towns of Calcutta, Madras and Bombay, except so far as this Act expressly provides for the same.

475. Nothing in this Act shall be held to alter or affect (a) the jurisdiction, duties, or procedure of landholders specially empowered according to law in the Presidency of Bombay,

(b) the jurisdiction or procedure of the Heads of Villages in the Presidency of Fort Saint George, (c) the jurisdiction, duties, or procedure of Village Police Officers in the Presidency of Bombay, (d) the jurisdiction or procedure of any officer duly authorized and appointed under the laws in force in the Presidencies of Fort Saint George and Bombay respectively, for the trial of petty offences in Military bázars at cantonments and stations occupied by the troops of those Presidencies respectively.

APPENDIX OF FORMS.

A.

FORM OF SUMMONS (section 106).

To A. B., of

Whereas your attendance is necessary to answer to a charge of (*state shortly the offence charged*): You are hereby required to appear in person or by

authorized agent, as the case may be, before the [Magistrate] of _____ on the _____ day of _____. Herein fail not.

(Signature and Seal.)

Dated the _____ day of _____

B.

FORM OF WARRANT (section 113).

To _____ (*name and designation of the person or persons who are to execute the warrant*).

Whereas _____ of _____ stands charged with the offence of (*state the offence*): You are hereby directed to apprehend the said _____ and produce him before me. Herein fail not.

(Signature and Seal.)

This warrant may be endorsed as follows:—

If the said _____ shall give bail, himself in the sum of _____ with one surety in the sum of _____ (*or two sureties each in the sum of _____*) to appear before me on the _____ day of _____ he may be released.

(Signature.)

Dated _____

C.

FORM OF WARRANT OF COMMITMENT (section 222).

To _____ Jailor of _____

Whereas _____ of _____ is charged with (*state the offence in respect of which the prisoner is charged, and the authority of the committing officer*):

You are hereby required to receive the said _____ into your custody in the said jail of _____ and him there safely to keep until he shall be thence delivered by due course of law.

(Signature.)

Dated the _____ day of _____

D.

FORM OF BOND TO KEEP THE PEACE (section 432).

Whereas I _____ inhabitant of _____ have been called upon to enter into a bond to keep the peace for the term of _____, I hereby bind myself not to commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of _____ rupees.

(Signature.)

Dated _____

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said _____ that he shall not commit a breach of

the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees.

(Signature.)

Dated

E.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (sections 88 and 321).

I of do hereby bind myself to appear at in the Court of at o'clock on the day of next, and then and there to prosecute (or, as the case may be, to prosecute and give evidence, or to give evidence) in the matter of a charge of against one A. B.; and in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of rupees.

F.

FORM OF BOND FOR GOOD BEHAVIOUR (section 448).

Whereas I inhabitant of have been called to enter into a bond to be of good behaviour to Her Majesty the Queen, and to all her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees.

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said that he shall be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees.

SCHEDULE I.

ENACTMENTS REPEALED.

PART I.—STATUTE.

Year and Chapter.	Title.	Extent of repeal.
53 Geo. iii, cap. clv.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with certain exclusive privileges; for establishing further Regulations for the government of the said territories, and the better administration of justice within the same; and for regulating the trade to and from the places within the limits of the said Company's Charter.	Section one hundred and five.

PART II.—ACTS.

Number and Year.	Subject or Title.	Extent of repeal.
XV of 1843	An Act for the more extensive employment of Uncovenanted Agency in the Judicial Department.	Sections three, four, five and six.
XV of 1845	An Act for declaring and enacting the privileges of Native Officers and Soldiers of the Armies of the three Presidencies in respect of Judicial and Revenue proceedings.	So much as has not been repealed.
XXIX of 1845.	An Act to empower the Government of Bombay to appoint Joint Zillah Judges or Joint Session Judges.	So much as has not been repealed.
I of 1849	An Act to provide more effectually for the punishment of offences committed in Foreign States.	The whole Act.
VII of 1853	An Act to extend the jurisdiction of Magistrates, under the 53rd Geo. iii, Cap. 155, Section 105, in cases of assaults, forcible entries, and other injuries accompanied with force, not being felonies.	The whole Act.
X of 1854	An Act for regulating the powers of Assistants to Magistrates, and of Deputy Magistrates appointed under Act XV of 1843.	So much as has not been repealed.
XX of 1856	An Act to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs and Bazaars in the Presidency of Fort William in Bengal.	Section fifty-eight.
XXV of 1861	An Act for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter.	So much as has not been repealed.
XVII of 1862	An Act to repeal certain Regulations and Acts relating to Criminal Law and Procedure.	So much as has not been repealed.
XXVIII of 1867.	An Act to remove doubts as to the legality of certain sentences passed by tribunals, called Petty Sessions Courts, in the North-Western Provinces.	The whole Act.
XXXVI of 1867.	An Act to correct an error in Act No. XVII of 1862.	
VIII of 1869	An Act further to amend the Code of Criminal Procedure.	The whole Act.
XXVII of 1870.	To amend the Indian Penal Code.	Sections sixteen and seventeen, and the two schedules.

PART III.—REGULATIONS. BENGAL REGULATIONS.			PART III.—continued.		
Number and Year.	Title.	Extent of repeal.	Number and Year.	Title.	Extent of repeal.
IX of 1793...	A Regulation for re-enacting with Alterations and Modifications, the Regulations passed by the Governor General in Council on the 3rd December 1790, and subsequent Dates, for the Apprehension and Trial of Persons charged with Crimes or Misdemeanors.	Sections three and thirty-four.		cised by Subordinate Collectors.	
XVI of 1810	A Regulation to amend the existing Rules for the Appointment of Zillah and City Magistrates; to provide for the Appointment of Joint and Assistant Magistrates; and to alter the Provisions in force for the Payment of a fixed Reward on the Conviction of Public Offenders.	So much as has not been repealed.	VIII of 1827	A Regulation for granting to Native Judges Jurisdiction in Criminal Cases.	So much as has not been repealed.
			I of 1830 ...	A Regulation for declaring the Practice of Suttee, or of burning or burying alive the widows of Hindoos, illegal, and punishable by the Criminal Courts.	The preamble. • Section three, clause one, from "and any zemindar" to the end; clauses two and three. And sections four and five.
				BOMBAY REGULATIONS.	
XVII of 1820	A Regulation for declaring the practice of Suttee, or of Burning or Burying alive the Widows of Hindoos, illegal, and punishable by the Criminal Courts.	Section three, clause one, from and including the words "and any zemindar" to the end of the clause. Clauses two and three.	XII of 1827	A Regulation for the establishment of a system of Police throughout the Zillahs subordinate to Bombay, for providing Rules for its Administration, and for defining the Duties and Powers of all Police Authorities and Servants.	Section ten, clause four.
	MADRAS REGULATIONS.		XIII of 1827	A Regulation for defining the Constitution of Courts of Criminal Justice, and the Functions and Proceedings thereof.	Sections one, two, three, seven, eight, nine, fourteen, fifteen, clause one. Sections twenty-seven and twenty-eight.
IX of 1813...	A Regulation for reducing into one Regulation certain Rules which have been passed regarding the Office of the Zillah Magistrate, for modifying and defining his Powers, and for transferring the Office of Zillah Magistrate from the Judge to the Collector of the Zillah.	Sections three, four and five.			
			III of 1830	A Regulation rescinding Regulations VIII. and XII. of 1828, and vesting the Criminal Judges with the Powers and Functions of Session Judges.	Sections two and six.
II of 1827...	A Regulation for constituting the Assistant Judges appointed under Regulation I, 1827, Joint Criminal Judges of the Zillahs in which they may be stationed, and for defining the Extent to which the Powers of Magistrate shall be exer-	Section five.	IV of 1830...	A Regulation rescinding such Parts of Regulation XII. of 1827 as vest the Criminal Judge with Police Jurisdiction of the Magistrate and his Assistants.	Section two.

SCHEDULE II.

Explanatory Notes.—1st.—The entries in the second and sixth columns of the schedule, headed respectively "Offence" and "Punishment" under the Indian Penal Code, are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

2nd.—The term "Whether bailable or not," in column five, is to be taken in connection with the provisions of sections 212 and 213 of this Code.

3rd.—Offences may be tried by a Court superior to the Court specifically mentioned in column seven. For example, a Court of Session may try an offence entered in column seven as triable by a Magistrate.

4th.—The words "Magistrate of the District," as used in column seven, shall include any officer exercising the powers of a Magistrate.

5th.—The words "any Magistrate," as used in column seven, shall include any Subordinate Magistrate of the first or second class.

6th.—In the territories in British India to which the General Regulations of Bengal, Madras and Bombay do not extend, the powers given by this Act shall be exercised by such Officers as the Local Government of those territories respectively shall appoint.

7th.—The last part of this schedule headed "Offences against other Laws" shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

CHAPTER V—OF ABETMENT.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence if the person abetted does the act with a different intention from that of the abettor.	Ditto	Ditto	Ditto	Ditto	Ditto.
111	When one act is abetted and a different act is done, subject to the proviso.	Ditto	Ditto	Ditto	The same punishment as for the offence intended to be abetted.	Ditto.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto	Ditto	Ditto	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed	Ditto	Ditto	Ditto	Ditto	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto	Ditto	Not bailable	Imprisonment of either description for seven years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto	Ditto	Ditto	Imprisonment of either description for fourteen years and fine.	Ditto.

CHAPTER V OF ABETMENT—(continued).

1 Section	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	Imprisonment extending to one-fourth part of the longest term, and of any description provided for the offence, or fine, or both.	By the Court by which the offence abetted is triable.
117	If the abettor or the person abetted be a public servant, whose duty it is to prevent the offence.	Ditto	Ditto	Ditto	Imprisonment extending to one-half of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
118	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto	Ditto	Ditto	Imprisonment of either description for three years, or fine, or both.	Ditto.
119	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto	Ditto	Not bailable	Imprisonment of either description for seven years, and fine.	Ditto.
	If the offence be not committed	Ditto	Ditto	Ditto	Imprisonment of either description for three years, and fine.	Ditto.
	A public servant concealing a design to commit an offence, which it is his duty to prevent, if the offence be committed.	Ditto	Ditto	According as the offence abetted is bailable or not.	Imprisonment extending to one-half of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation	Ditto	Ditto	Not bailable	Imprisonment of either description for ten years.	Ditto.
	If the offence be not committed	Ditto	Ditto	According as the offence abetted is bailable or not.	Imprisonment extending to one-fourth part of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto	Ditto	Ditto	Imprisonment extending to one-fourth part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.

CHAPTER VI—OFFENCES AGAINST THE STATE.

If not committed	Shall not arrest without warrant.	Warrant	...	Ditto	...	Ditto	...	Imprisonment extending to one-eighth part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.
121	Waging or attempting to wage war, or abetting the waging of war against the Queen.	...	...	...	...	...	...	Death, or transportation for life, and forfeiture of property.	Court of Session.
121 A.	Conspiring to commit certain offences against the State	...	...	Ditto	...	Ditto	...	Transportation for life or any shorter term, or imprisonment of either description for ten years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for ten years, and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for ten years, and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for seven years, and fine.	Ditto.
124 A.	Exciting, or attempting to excite, disaffection	Ditto	...	Ditto	...	Ditto	...	Transportation for life or for any term and fine, or imprisonment of either description for three years and fine, or fine.	Ditto.
125	Waging war against any Asiatic power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto	...	Ditto	...	Ditto	...	Transportation for life and fine, or imprisonment of either description for seven years and fine, or fine.	Ditto.
126	Committing depredation on the territories of any power in alliance or at peace with the Queen.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for seven years, and fine and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation, mentioned in sections 125 and 126.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for ten years, and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for three years, and fine.	Court of Session or Magistrate of the District.
130	Aiding escape of, rescuing, or harbouring such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for ten years, and fine.	Court of Session.

CHAPTER VII—OFFENCES RELATING TO THE ARMY AND NAVY.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
131	Abetting mutiny, or attempting to seduce an officer, soldier, or sailor from his allegiance or duty.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for ten years, and fine.	Court of Session.
132	Abetment of mutiny if mutiny is committed in consequence thereof.	Ditto	Ditto	Ditto	Death or transportation for life, or imprisonment of either description for ten years, and fine.	Ditto.
133	Abetment of an assault by an officer, soldier, or sailor on his superior officer when in the execution of his office.	Ditto	Ditto	Ditto	Imprisonment of either description for three years, and fine.	Court of Session or Magistrate of the District.
134	Abetment of such assault, if the assault is committed	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Court of Session.
135	Abetment of the desertion of an officer, soldier, or sailor	Ditto	Ditto	Bailable	Imprisonment of either description for two years, or fine, or both.	Magistrate of the District.
136	Harbouring such an officer, soldier, or sailor who has deserted	Ditto	Ditto	Ditto	Ditto	Ditto.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Ditto	Fine of five hundred rupees	Ditto.
138	Abetment of act of insubordination by an officer, soldier, or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for six months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons	Ditto	Imprisonment of either description for three months, or fine of five hundred rupees, or both.	Any Magistrate.

CHAPTER VIII—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
143	Being a member of an unlawful assembly.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for six months, or fine, or both.	Any Magistrate.

	Joining an unlawful assembly armed with any deadly weapon,	Ditto	...	Warrant	...	Ditto	...	Imprisonment of either description for two years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	...	...	...	Ditto	...	Ditto	Ditto.
147	Rioting	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
148	Rioting armed with a deadly weapon	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for three years, or fine, or both.	Court of Session or Magistrate of the District.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	...	According as a warrant or summons may issue for the offence.	...	According as the offence is bailable or not.	...	The same as for the offence	By the Court by which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	...	According to the offence committed by the person hired, engaged, or employed.	...	Ditto	...	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto	...	Summons	...	Bailable	...	Imprisonment of either description for six months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto	...	Warrant	...	Ditto	...	Imprisonment of either description for three years, or fine, or both.	Court of Session or Magistrate of the District.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for one year, or fine, or both.	Any Magistrate.
	If not committed	Ditto	...	Summons	...	Ditto	...	Imprisonment of either description for six months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	...	Ditto	...	Ditto	...	Fine of one thousand rupees	Magistrate of the District, or Subordinate Magistrate of First Class.
155	Person for whose benefit, or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	...	Ditto	...	Ditto	...	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly	May arrest without warrant.	...	Ditto	...	Ditto	...	Imprisonment of either description for six months, or fine, or both.	Ditto.

CHAPTER VIII—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—(continued.)

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
158	Being hired to take part in an unlawful assembly or riot ...	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for six months, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
	Or to go armed ...	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for two years, or fine, or both.	Ditto.
160	Committing affray ...	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for one month, or fine of one hundred rupees, or both.	Any Magistrate.

CHAPTER IX—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

		Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for three years, or fine, or both.	Court of Session or Magistrate of the District.
161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Ditto ...	Summons ...	Bailable ...	Imprisonment of either description for three years, or fine, or both.	Ditto.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for one year, or fine, or both.	Magistrate of the District.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for three years, or fine, or both.	Court of Session or Magistrate of the District.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for two years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.

166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	...	Ditto	...	Ditto	Simple imprisonment for one year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for three years, or fine, or both.	Court of Session or Magistrate of the District.
168	Public servant unlawfully engaging in trade	Ditto	...	Ditto	...	Ditto	Simple imprisonment for one year, or fine, or both.	Magistrate of the District.
169	Public servant unlawfully buying or bidding for property	Ditto	...	Ditto	...	Ditto	Simple imprisonment for two years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant	May arrest without warrant.	...	Warrant	...	Ditto	Imprisonment of either description for two years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto	...	Summons	...	Ditto	Imprisonment of either description for three months, or fine of two hundred rupees, or both.	Ditto.

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	...	Summons	...	Ballable	Simple imprisonment for one month, or fine of five hundred rupees, or both.	Any Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto	...	Ditto	...	Ditto	Simple imprisonment for six months, or fine of one thousand rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto	...	Ditto	...	Ditto	Simple imprisonment for one month, or fine of five hundred rupees, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto	...	Ditto	...	Ditto	Simple imprisonment for six months, or fine of one thousand rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto	...	Ditto	...	Ditto	Simple imprisonment for one month, or fine of five hundred rupees, or both.	Any Magistrate.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto	...	Ditto	...	Ditto	Simple imprisonment for six months, or fine of one thousand rupees, or both.	Ditto.

CHAPTER X—CONTENTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(continued.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for one month, or fine of five hundred rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter X of this Code, or if not committed in a Court, the Magistrate of the District, or Subordinate Magistrate of First Class.
176	If the document is required to be produced in or delivered to a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for six months, or fine of one thousand rupees, or both.	Ditto.
	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for one month, or fine of five hundred rupees, or both.	Magistrate of the District.
	If the notice or information required respects the commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for six months, or fine of one thousand rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Magistrate of the District, or Subordinate Magistrate of First Class.
	If the information required respects the commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for two years, or fine, or both.	Ditto.

178	Refusing oath when duly required to take oath by a public servant.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for six months, or fine of one thousand rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter X of this Code, or if not committed in a Court, the Magistrate of the District, or Subordinate Magistrate of First Class.
179	Being legally bound to state the truth, and refusing to answer questions.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for three months, or fine of five hundred rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	...	Warrant	...	Ditto	...	Imprisonment of either description for three years, or fine, or both.	Court of Session, or Magistrate of the District.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto	...	Summons	...	Ditto	...	Imprisonment of either description for six months, or fine of one thousand rupees, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for one month, or fine of five hundred rupees, or both.	Ditto.
185	Bidding by a person under a legal incapacity to purchase it for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for one month, or fine of two hundred rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for three months, or fine of five hundred rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for one month, or fine of two hundred rupees, or both.	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for six months, or fine of five hundred rupees, or both.	Ditto.

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(continued.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for one month, or fine of two hundred rupees, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for six months, or fine of one thousand rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for two years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for one year, or fine, or both.	Ditto.

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

		Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for seven years, and fine.	Court of Session.
193	Giving or fabricating false evidence in a judicial proceeding...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for three years, and fine.	Ditto.
	Giving or fabricating false evidence in any other case	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or rigorous imprisonment for ten years, and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto ...	Ditto ...	Ditto ...	Death, or as above ...	Ditto.
	If innocent person be thereby convicted and executed	Ditto ...	Ditto ...	Ditto ...	The same as for the offence ...	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto ...	Ditto ...	Ditto ...	The same as for the offence ...	Ditto.

196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto	...	Ditto	...	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	Ditto.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	...	Ditto	...	Bailable	The same as for giving false evidence ...	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto	...	Ditto	...	Ditto	Ditto ...	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto	...	Ditto	...	Ditto	Ditto ...	Ditto.
200	Using as true any such declaration known to be false	Ditto	...	Ditto	...	Ditto	Ditto ...	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for seven years, and fine.	Ditto.
	If punishable with transportation, or imprisonment for ten years.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for three years, and fine.	Court of Session, or Magistrate of the District.
	If punishable with less than ten years' imprisonment	Ditto	...	Ditto	...	Ditto	Imprisonment for one-fourth of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	...	Summons	...	Ditto	Imprisonment of either description for six months, or fine, or both.	Magistrate of the District.
203	Giving false information respecting an offence committed	Ditto	...	Warrant	...	Ditto	Imprisonment of either description for two years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	...	Ditto	...	Ditto	Ditto ...	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for three years, or fine, or both.	Court of Session or Magistrate of the District.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for two years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	...	Ditto	...	Ditto	Ditto ...	Ditto.

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(continued.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for two years, or fine, or both.	Magistrate of the District.
209	False claim in a Court of Justice	Ditto	Ditto	Ditto	Imprisonment of either description for two years, and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Imprisonment of either description for two years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure	Ditto	Ditto	Ditto	Ditto	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for seven years, or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Court of Session.
212	Harbouring an offender if the offence be capital	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for five years, and fine.	Ditto.
	If punishable with transportation for life, or with imprisonment for ten years.	Ditto	Ditto	Ditto	Imprisonment of either description for three years, and fine.	Court of Session, or Magistrate of the District.
	If punishable with imprisonment for one year, and not for ten years.	Ditto	Ditto	Ditto	Imprisonment for one-fourth of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for ten years.	Ditto	Ditto	Ditto	Imprisonment of either description for three years, and fine.	Court of Session, or Magistrate of the District.
	If with imprisonment for less than ten years	Ditto	Ditto	Ditto	Imprisonment for one-fourth of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.

214	Gift made to cause restoration of property in consideration of screening offender, if the offence be capital.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for seven years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for ten years.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for three years, and fine.	Court of Session or Magistrate of the District.
	If with imprisonment for less than ten years	Ditto	...	Ditto	...	Ditto	...	Imprisonment for one-fourth of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for two years, or fine, or both.	Magistrate of the District.
216	Harbours an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	...	Ditto	...	Ditto	...	Imprisonment of either description for seven years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for ten years.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for three years, and fine.	Court of Session or Magistrate of the District.
	If with imprisonment for one year and not for ten years	Ditto	...	Ditto	...	Ditto	...	Imprisonment for one-fourth of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	...	Summons	...	Ditto	...	Imprisonment of either description for two years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto	...	Warrant	...	Ditto	...	Imprisonment of either description for three years, or fine, or both.	Court of Session.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict, or decision which he knows to be contrary to law.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for seven years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for seven years, with or without fine.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE (*continued*).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If punishable with transportation for life, or imprisonment for ten years.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for three years, with or without fine.	Court of Session or Magistrate of the District.
	If with imprisonment for less than ten years	Ditto	Ditto	Ditto	Imprisonment of either description for two years, with or without fine.	Magistrate of the District, or Subordinate Magistrate of First Class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for fourteen years, with or without fine.	Court of Session.
	If under sentence of transportation for life, or imprisonment or penal servitude for ten years or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than ten years	Ditto	Ditto	Bailable	Imprisonment of either description for three years, or fine or both.	Court of Session or Magistrate of the District.
223	Escape from confinement negligently suffered by a public servant.	Ditto	Summons	Ditto	Simple imprisonment for two years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for two years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for ten years.	Ditto	Ditto	Not bailable	Imprisonment of either description for three years, and fine.	Court of Session or Magistrate of the District.
	If charged with a capital offence	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Court of Session.

225 A.	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for ten years or upwards.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto
	If under sentence of death	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto
	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto
226	Unlawful return from transportation	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto
227	Violation of condition of remission of punishment	Shall not arrest without warrant.	...	Summons	...	Ditto	...	Ditto	...	Ditto
228.	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto
229	Personation of a juror or assessor	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

	May arrest without warrant.	Warrant	...	Not bailable	...	Imprisonment of either seven years, and fine.	Court of Session.
231	Counterfeiting or performing any part of the process of counterfeiting Coin.		...	...	...
232	Counterfeiting or performing any part of the process of counterfeiting the Queen's Coin.	Ditto	...	Ditto	...	Imprisonment of either description for ten years, and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting Coin.	Ditto	...	Ditto	...	Imprisonment of either description for three years, and fine.	Court of Session or Magistrate of the District.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's Coin.	Ditto	...	Ditto	...	Imprisonment of either description for seven years, and fine.	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting Coin.	Ditto	...	Ditto	...	Imprisonment of either description for three years, and fine.	Court of Session or Magistrate of the District.
	If Queen's Coin	Ditto	...	Ditto	...	Imprisonment of either description for ten years, and fine.	Court of Session.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS (continued).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
236	Abetting in India the counterfeiting out of British India of Coin.	May arrest without warrant.	Warrant ...	Not bailable ...	The punishment provided for abetting the counterfeiting of such coin within British India.	Court of Session.
237	Import or export of counterfeit Coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for three years, and fine.	Court of Session or Magistrate of the District.
238	Import or export of counterfeits of the Queen's Coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for ten years, and fine.	Court of Session.
239	Having any counterfeit Coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for five years, and fine.	Ditto.
240	The same with respect to the Queen's Coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for ten years, and fine.	Ditto.
241	Knowingly delivering to another any counterfeit Coin as genuine which when first possessed the deliverer did not know to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for two years, or fine of ten times the value of the Coin counterfeited, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
242	Possession of counterfeit Coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for three years, and fine.	Court of Session or Magistrate of the District.
243	Possession of Queen's Coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for seven years, and fine.	Court of Session.
244	Persons employed in a Mint causing Coin to be of a different weight or composition from that fixed by law.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
245	Unlawfully taking from a Mint any coin ⁱ ing instrument.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any Coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for three years, and fine.	Court of Session or Magistrate of the District.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS (*continued*).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
263	Erasure of mark denoting that stamp has been used.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for three years, or fine, or both.	Court of Session or Magistrate of the District.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

		Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for one year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
264	Fraudulent use of false instrument for weighing.	Ditto	Ditto	Ditto	Ditto	Ditto
265	Fraudulent use of false weight or measure.	Ditto	Ditto	Ditto	Ditto	Ditto
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

		May arrest without warrant.	Summons	Bailable	Imprisonment of either description for six months, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto	Ditto	Ditto	Ditto
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto	Ditto	Ditto	Ditto
271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for six months, or fine, or both.	Ditto